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SUBCHAPTER *I*—GENERAL PROVISIONS

§ 1. Regulations by Secretary of the Army for navigation of waters generally

It shall be the duty of the Secretary of the Army to prescribe such regulations for the use, administration, and navigation of the navigable waters of the United States as in his judgment the public necessity may require for the protection of life and property, or of operations of the United States in channel improvement, covering all matters not specifically delegated by law to some other executive department. Such regulations shall be posted, in conspicuous and appropriate places, for the information of the public; and every person and every corporation which shall violate such regulations shall be deemed guilty of a misdemeanor and, on conviction thereof in any district court of the United States within whose territorial jurisdiction such offense may have been committed, shall be punished by a fine not exceeding $500, or by imprisonment (in the case of a natural person) not exceeding six months, in the discretion of the court.

Any regulations prescribed by the Secretary of the Army in pursuance of this section may be enforced as provided in section 413 of this title, the provisions whereof are made applicable to the said regulations.

(Aug. 18, 1894, ch. 299, § 4, 28 Stat. 362; June 13, 1902, ch. 1079, §§ 6, 11, 32 Stat. 374; Aug. 8, 1917, ch. 49, § 7, 40 Stat. 266.)

Codification

The first paragraph of this section is from section 4 of act Aug. 18, 1894, popularly known as the River and Harbor Act of 1894, as amended.

As originally enacted, said section 4 made it the duty of the Secretary of War to prescribe rules and regulations for the use, administration, and navigation of any or all canals and similar works of navigation owned, operated, or maintained by the United States, and provided for the posting of such regulations and the punishment of violations thereof.

Said section 4 was amended by section 11 of act June 13, 1902, principally by adding to the original section provisions authorizing the Secretary also to prescribe regulations to govern the speed and movement of vessels and other water craft in any public navigable channel which had been improved under authority of Congress, whenever in his judgment such regulations were necessary to protect such improved channel from injury or to prevent interference with the operations of the United States in improving navigable waters or injury to any plant that might be employed in such operations.

Section 4 was also amended by section 7 of act Aug. 8, 1917, to read as set forth in the first paragraph hereof.

The last paragraph of this section is from section 6 of act June 13, 1902. Said section 6 is also the source of the last proviso in section 499 of this title.

Change of Name

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

Rules and Regulations

Administrative provisions covering definitions which the Coast Guard uses to examine waters to determine whether the Coast Guard has jurisdiction on those waters under particular laws of the United States are set out in chapter I, subchapter A, part 2, of Title 33, Navigation and Navigable Waters, in the Code of Federal Regulations. Such part 2, consisting of sections 2.01-1 to 2.10-10, sets out definitions of jurisdictional terms and provides for the availability of jurisdictional decisions.

Cross References

Felony and misdemeanor defined, see section 1 of Title 18, Crimes and Criminal Procedure.

§ 2. Regulations for navigation of South and Southwest Passes of Mississippi River; penalties

The Secretary of the Army is authorized to make such rules and regulations for the navigation of the South and Southwest Passes of the Mississippi River as to him shall seem necessary or expedient for the purpose of preventing any obstruction to the channels through said South and Southwest Passes and any injury to the works therein constructed. The term

"South and Southwest Passes", as employed in this section, shall be construed as embracing the entire extent of channel in each case, between the upper ends of the works at the head of the pass and the outer or sea ends of the jetties at the entrance from the Gulf of Mexico; and any willful violation of any rule or regulation made by the Secretary of the Army in pursuance of this section shall be deemed a misdemeanor, for which the owner or owners, agent or agents, master or pilot of the vessel so offending shall be separately or collectively responsible, and on conviction thereof shall be punished by a fine of not less than $100, nor exceeding $500, or by imprisonment for not exceeding three months, or by both fine and imprisonment, at the discretion of the court.

(Mar. 3, 1909, ch. 264, § 5, 35 Stat. 818.)

CODIFICATION

These provisions were part of section 5 of act Mar. 3, 1909, popularly known as the River and Harbor Appropriation Act of 1909.

These provisions superseded previous similar provisions relating to the navigation of the South Pass only, contained in act Aug. 11, 1888, ch. 860, § 5, 25 Stat. 424, amended by act Sept. 19, 1890, ch. 907, § 3, 26 Stat. 452.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

CROSS REFERENCES

Appropriations for examinations and surveys, see section 725a of Title 31, Money and Finance.

Felony and misdemeanor defined, see section 1 of Title 18, Crimes and Criminal Procedure.

§ 3. Regulations to prevent injuries from target practice

Authority to adopt regulations—In the interest of the national defense, and for the better protection of life and property on the navigable waters of the United States, the Secretary of the Army is authorized and empowered to prescribe such regulations as he may deem best for the use and navigation of any portion or area of the navigable waters of the United States or waters under the jurisdiction of the United States endangered or likely to be endangered by Artillery fire in target practice or otherwise, or by the proving operations of the Government ordnance proving grounds at Sandy Hook, New Jersey, or at any Government ordnance proving ground that may be established elsewhere on or near such waters, and of any portion or area of said waters occupied by submarine mines, mine fields, submarine cables, or other material and accessories pertaining to seacoast fortifications, or by any plant or facility engaged in the execution of any public project of river and harbor improvement; and the said Secretary shall have like power to regulate the transportation of explosives upon any of said waters: *Provided,* That the authority conferred shall be so exercised as not unreasonably to interfere with or restrict the food fishing industry, and the regulations prescribed in pursuance hereof shall provide for the use of such waters by food fishermen operating under permits granted by the Department of the Army.

Detail of vessels to enforce regulations—To enforce the regulations prescribed pursuant to this section, the Secretary of the Army, may detail any public vessel in the service of the Department of the Army, or, upon the request of the Secretary of the Army, the head of any other department may enforce, and the head of any such department is authorized to enforce, such regulations by means of any public vessel of such department.

Posting and violation of regulations—The regulations made by the Secretary of the Army pursuant to this section shall be posted in conspicuous and appropriate places, designated by him, for the information of the public; and every person who and every corporation which shall willfully violate any regulations made by the said Secretary pursuant to this section shall be deemed guilty of a misdemeanor, and upon conviction thereof in any court of competent jurisdiction shall be punished by a fine not exceeding $500, or by imprisonment (in the case of a natural person) not exceeding six months, in the discretion of the court.

Venue and jurisdiction of offenses; procedure—Offenses against the provisions of this section, or any regulation made pursuant thereto, committed in any Territory or other place subject to the jurisdiction of the United States where there is no court having general jurisdiction of crimes against the United States, shall be cognizable in any court of such place or Territory having original jurisdiction of criminal cases in the place or Territory in which the offense has been committed, with the same right of appeal in all cases as is given in other criminal cases where imprisonment not exceeding six months forms a part of the penalty, and jurisdiction is conferred upon such courts and such courts shall exercise the same for such purposes; and in case any such offense be committed beyond the territorial jurisdiction of any court having jurisdiction thereof, the offense shall be deemed and held to have been committed within the jurisdiction in which the offender may be found or into which he is first brought, and shall be tried by the court having jurisdiction thereof.

(July 9, 1918, ch. 143, subch. XIX, §§ 1-4, 40 Stat. 892, 893.)

CODIFICATION

Undesignated pars. 1 to 4 of this section are from sections 1 to 4, respectively, of act July 9, 1918, popularly known as the Army Appropriation Act of 1919.

Undesignated pars. 1 and 2 of this section superseded similar provisions of act Aug. 8, 1917, ch. 49, § 8, 40 Stat. 266.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10,

Armed Forces", which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

The Coast Artillery has been changed to Artillery under authority of section 306(a) of act June 28, 1950, ch. 383, title III, 64 Stat. 269. Section 306(a) of act June 28, 1950 was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in section 3063 continued the Artillery as a basic branch of the Army.

TRANSFER OF FUNCTIONS

For transfer of certain functions insofar as they pertain to the Air Force, and to the extent that they were not previously transferred to the Secretary of the Air Force and Department of the Air Force from the Secretary of the Army and Department of the Army, see Secretary of Defense Transfer Order No. 40 [App. A(55)], July 22, 1949.

CROSS REFERENCES

Appeals in petty offenses—
Right to, see section 3402 of Title 18, Crimes and Criminal Procedure.
Rule governing, see Rules of Procedure for Trial of Minor Offenses Before United States Magistrates, Title 18, Appendix, Crimes and Criminal Procedure.
Felony and misdemeanor defined, see section 1 of Title 18, Crimes and Criminal Procedure.

§ 4. Water gauges on Mississippi River and tributaries

The Secretary of the Army is authorized and directed to have water gauges established, and daily observations made of the rise and fall of the Mississippi River and its tributaries.

For the purpose of securing the uninterrupted gauging of the waters of the Mississippi River and its tributaries, as provided for in this section, upon the application of the Chief of Engineers, the Secretary of the Army is authorized to draw his warrant or requisition, from time to time, upon the Secretary of the Treasury for such sums as may be necessary to do such work, not to exceed in the aggregate for each year the sum of $9,600.

(R.S. § 5252; Aug. 11, 1888, ch. 860, § 6, 25 Stat. 424; June 13, 1902, ch. 1079, § 9, 32 Stat. 374; June 26, 1934, ch. 756, § 2, 48 Stat. 1226; Aug. 30, 1954, ch. 1076, § 1(15), 68 Stat. 967.)

CODIFICATION

R.S. § 5252 is from Res. Feb. 21, 1871, No. 40, 16 Stat. 598.

The first paragraph of this section is from R.S. § 5252, which, as enacted, authorized and directed the establishment of water gauges and the making of daily observations at or in the vicinity of certain enumerated places, and at such other places as the Secretary of War might deem advisable. It further provided that the expenditure should be made from the appropriation for the improvement of rivers and harbors and that the annual cost of the observations should not exceed $5,000. These latter provisions were apparently modified by section 6 of act Aug. 11, 1888, as amended by section 9 of act June 13, 1902, which was substantially the second paragraph of this section. As originally enacted, section 6 of act Aug. 11, 1888, provided for the gauging of the waters of the Lower Mississippi and tributaries, and limited the cost for each year to the amount appropriated in the act for such purpose.

AMENDMENTS

1954—Act Aug. 30, 1954, repealed the proviso requiring that an itemized statement of expenses incurred in gauging waters of the Mississippi River and its tributaries, as provided in this section, should accompany the annual report of the Chief of Engineers.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

REPEAL OF PERMANENT APPROPRIATION

Effective July 1, 1935, the permanent appropriation formerly provided for in this section was repealed by act June 26, 1934, authorizing, in lieu thereof, an annual appropriation from the general fund of the Treasury. See section 725a of Title 31, Money and Finance.

§ 5. Abolition of tolls on Government canals, canalized rivers, etc.; expense of operation, repairs to and reconstruction of canals, etc.; Panama Canal excepted

No tolls or operating charges whatever shall be levied upon or collected from any vessel, dredge, or other water craft for passing through any lock, canal, canalized river, or other work for the use and benefit of navigation, now belonging to the United States or that may be hereafter acquired or constructed; and for the purpose of preserving and continuing the use and navigation of said canals and other public works without interruption, the Secretary of the Army, upon the recommendation of the Chief of Engineers, United States Army, is authorized to draw his warrant or requisition, from time to time, upon the Secretary of the Treasury to pay the actual expenses of operating, maintaining, and keeping said works in repair, which warrants or requisitions shall be paid by the Secretary of the Treasury out of any money in the Treasury not otherwise appropriated: *Provided*, That whenever, in the judgment of the Secretary of the Army, the condition of any of the aforesaid works is such that its entire reconstruction is absolutely essential to its efficient and economical maintenance and operation as herein provided for, the reconstruction thereof may include such modifications in plan and location as may be necessary to provide adequate facilities for existing navigation: *Provided further*, That the modifications are necessary to make the reconstructed work conform to similar works previously authorized by Congress and forming a part of the same improvement, and that such modifications shall be considered and approved by the Board of Engineers for Rivers and Harbors and be recommended by the Chief of Engineers before the work of reconstruction is commenced: *And provided further*, That nothing contained in this section shall be held to apply to the Panama Canal.

(July 5, 1884, ch. 229, § 4, 23 Stat. 147; Mar. 3, 1909, ch. 264, § 6, 35 Stat. 818; June 26, 1934, ch. 756, § 2, 48 Stat. 1225; Aug. 30, 1954, ch. 1076, § 1(15), 68 Stat. 967.)

CODIFICATION

Section is from act July 5, 1884, popularly known as the Rivers and Harbors Appropriation Act of 1884.

The section, as originally enacted, was as follows: "No tolls or operating charges whatsoever shall be levied or collected upon any vessel or vessels, dredges, or other passing water-craft through any canal or other work for the improvement of navigation belonging to the United States; and for the purpose of preserving and continuing the use and navigation of said canals, rivers, and other public works without interruption, the Secretary of War, upon the application of the chief engineer in charge of said works, is hereby authorized to draw his warrant or requisition from time to time upon the Secretary of the Treasury to pay the actual expenses of operating and keeping said works in repair, which warrants or requisitions shall be paid by the Secretary of the Treasury, out of any money in the Treasury not otherwise appropriated: *Provided, however,* That an itemized statement of said expenses shall accompany the annual report of the chief of engineers."

It was amended by act March 3, 1909, to read substantially as set forth here.

AMENDMENTS

1954—Act Aug. 30, 1954, repealed what was then the next to the last proviso requiring that an itemized statement of expenses incurred in operating, maintaining, keeping in repair, and reconstructing locks, canals, etc., other than the Panama Canal, as provided in this section, should accompany the annual report of the Chief of Engineers.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947 was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956 enacted "Title 10, Armed Forces", which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

REPEAL OF PERMANENT APPROPRIATION

Effective July 1, 1935, the permanent appropriation formerly provided for in this section was repealed by act June 26, 1934, authorizing, in lieu thereof, an annual appropriation from the general fund of the Treasury. See section 725a of Title 31, Money and Finance.

§ 6. Free passage to harbor of Michigan City, Indiana

The passage of vessels to and from the harbor of Michigan City, in Indiana, shall be free and not subject to toll or charge.

(R.S. § 5247.)

CODIFICATION

R.S. § 5247 is from acts June 23, 1866, ch. 138, § 1, 14 Stat. 73; Mar. 2, 1867, ch. 144, § 2, 14 Stat. 421.

§ 7. Use of Government iron pier in Delaware Bay

The Government iron pier in Delaware Bay near Lewes, Delaware, shall be open to public use under regulations to be prescribed by the Secretary of the Army.

(July 27, 1916, ch. 260, § 1, 39 Stat. 394.)

CODIFICATION

Section is from act July 27, 1916, popularly known as the Rivers and Harbors Appropriation Act of 1916.

A further provision of act July 27, 1916, repealed act Mar. 3, 1891, ch. 542, 26 Stat. 969, which authorized a transfer of the iron pier to the Treasury Department.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947 was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956 enacted "Title 10, Armed Forces", which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

§ 8. Toll free rivers in Alabama

The Tennessee, Coosa, Cahawba, and Black Warrior Rivers, within the State of Alabama, shall be forever free from toll for all property belonging to the United States, and for all persons in their service, and for all citizens of the United States, except as to such tolls as may be allowed by Act of Congress.

(R.S. § 5244.)

CODIFICATION

R.S. § 5244 is from act May 23, 1828, ch. 75, § 7, 4 Stat. 290.

§ 9. Des Moines River as toll free

The Des Moines River shall forever remain free from any toll, or other charge whatever, for any property of the United States, or persons in their service, passing along the same.

(R.S. § 5246.)

CODIFICATION

R.S. § 5246 is from acts Aug. 8, 1846, ch. 103, § 3, 9 Stat. 78; Jan. 20, 1870, ch. 7, 16 Stat. 61.

§ 10. Waters in Louisiana Purchase as public highways

All the navigable rivers and waters in the former Territories of Orleans and Louisiana shall be and forever remain public highways.

(R.S. § 5251.)

CODIFICATION

R.S. § 5251 is from act Mar. 3, 1811, ch. 46, § 12, 2 Stat. 606.

CROSS REFERENCES

Bayou Cocodrie, Louisiana, declared nonnavigable, see section 21 of this title.

§ 11. Authority for compact between Middle Northwest States as to jurisdiction of offenses committed on boundary waters

The consent of the Congress is given to the States of North Dakota, South Dakota, Minnesota, Wisconsin, Iowa, and Nebraska, or any two or more of them, by such agreement or compact as they may deem desirable or necessary, or as may be evidenced by legislative acts enacted by any two or more of said States, not in conflict with the Constitution of the United States or any law thereof, to determine and settle the jurisdiction to be exercised by said States, respectively, over offenses arising out of the violation of the laws of any of said States upon any of the waters forming the boundary lines between any two or more of said States, or waters through which such boundary line extends, and that the consent of the Congress be, and the same is, given to the concurrent juris-

diction agreed to by the States of Minnesota and South Dakota, as evidenced by the act of the Legislature of the State of Minnesota approved April 20, 1917, and the act of the Legislature of the State of South Dakota approved February 13, 1917.

(Mar. 4, 1921, ch. 176, 41 Stat. 1447.)

CODIFICATION

This section is from a resolution entitled a "Joint Resolution giving consent of the Congress of the United States to the States of North Dakota, South Dakota, Minnesota, Wisconsin, Iowa, and Nebraska, or any two or more of said States, to agree upon the jurisdiction to be exercised by said States over boundary waters between any two or more of said States".

§ 12. Port Arthur Ship Canal

After there shall be conveyed to the United States, free of cost, a valid title to the line of water communication between Taylors Bayou and Sabine Pass, in the State of Texas, known as the Port Arthur Ship Canal, together with a valid title to the turning basin as existing June 19, 1906, and to the artificial slip on which the lumber dock of the Port Arthur Canal and Dock Company is built, the said waterways shall thereupon become free public waters of the United States, and be subject to the laws enacted by Congress for the maintenance, preservation, protection, and regulation of navigable waters: *Provided,* That the company or corporation conveying title to said canal as aforesaid shall also convey to the United States, free of cost, the fee to a strip of land one hundred and fifty feet wide along the westerly margin of the canal, except that where the right of way of the Southern Pacific Railroad Company prevents the transfer of such strip of land along the westerly margin of said canal there shall be conveyed such strip on the easterly margin thereof as may be necessary to make up such one hundred and fifty feet of width, with the reservation that until Congress shall have authorized and provided for the enlargement and widening of said canal the said company or corporation, its successors or assigns, shall have the right to control, occupy, and use the said strip of land and every part thereof in the same manner and to the same extent as before the execution and delivery of the conveyance, and also the right to transfer, lease, sell, quitclaim, or otherwise dispose of said property and every part thereof, subject to the grant made to the United States. The charges for the use of said docks and wharves shall be just and reasonable and shall not be greater than charges for similar services at other ports of the United States on the Gulf of Mexico.

(June 19, 1906, ch. 3436, § 1, 34 Stat. 302.)

CODIFICATION

This section is from a proviso following provisions establishing an additional collection district in the State of Texas to be known as the district of Sabine; the establishment of the said district being conditioned on the making of the conveyance referred to in this section.

Further provisions of the said proviso authorizing the Secretary of War to accept the said waterways as the property of the United States, and directing that the Act take effect only when the requirements of the section be fully complied with to the satisfaction of the Secretary of War, have been omitted as executed and obsolete.

SUBCHAPTER II—WATERS DECLARED NONNAVIGABLE: CHANGE OF NAME

§ 21. Bayou Cocodrie, Louisiana

Bayou Cocodrie, from its source to its junction with Bayou Chicot, in the State of Louisiana, is declared to be not a navigable water of the United States within the meaning of the laws enacted by the Congress for the preservation and protection of such waters.

The right to alter, amend, or repeal this section is expressly reserved.

(Feb. 25, 1921, ch. 71, §§ 1, 2, 41 Stat. 1145.)

CODIFICATION

The first sentence hereof is section 1 and the second sentence section 2 of act Feb. 25, 1921, entitled "An Act to declare Bayou Cocodrie nonnavigable from its source to its junction with Bayou Chicot".

§ 22. Bayou Meto, Arkansas

The Bayou Meto, in the State of Arkansas, is declared to be a nonnavigable stream within the meaning of the Constitution and laws of the United States.

(Aug. 8, 1917, ch. 49, § 16, 40 Stat. 268.)

§ 23. Bear Creek, Mississippi

Bear Creek in Humphreys, Leflore, and Sunflower Counties, in the State of Mississippi, is declared to be a nonnavigable stream within the meaning of the Constitution and the laws of the United States.

The right of Congress to alter, amend, or repeal this section is expressly reserved.

(Mar. 3, 1923, ch. 229, §§ 1, 2, 42 Stat. 1442.)

CODIFICATION

The first sentence hereof is section 1 and the last sentence section 2 of act Mar. 3, 1923, entitled "An Act declaring Bear Creek in Humphreys, Leflore, and Sunflower counties, Mississippi, to be a nonnavigable stream".

§ 24. Big Tarkio River, Missouri

The Big Tarkio River, in the counties of Holt and Atchison, in the State of Missouri, is declared to be not a navigable water of the United States within the meaning of the laws enacted by Congress for the preservation and protection of such waters.

The right to alter, amend, or repeal this section is expressly reserved.

(Feb. 15, 1910, ch. 33, §§ 1, 2, 36 Stat. 194.)

CODIFICATION

The first sentence hereof is section 1 and the last sentence section 2 of act Feb. 15, 1910, entitled "An Act to declare Big Tarkio River, in Holt and Atchison counties, Missouri, nonnavigable."

§ 25. Cache River, Arkansas

The Cache River in the State of Arkansas is declared to be a nonnavigable stream within the meaning of the Constitution and laws of the United States. This provision shall become void after one year from July 27, 1916, unless within said period the Legislature of Arkansas

shall pass an act expressly approving this declaration. The right of the Congress to alter, amend, or repeal this section is expressly reserved.

(July 27, 1916, ch. 260, § 1, 39 Stat. 399.)

CODIFICATION

Section was a provision of section 1 of act July 27, 1916, popularly known as the Rivers and Harbors Appropriation Act of 1916.

APPROVAL OF DECLARATION

See Arkansas Laws 1917, ch. 2, act 406.

§ 26. Calumet River, Cook County, Illinois, old channel

The portion of the old channel of the Calumet River in the north quarter of fractional section 7, township 37 north, range 15 east, of the third principal meridian, south of the Indian boundary line, in Cook County, Illinois, which lies outside of the new channel lines as established by the United States and shown on "map of the Calumet River, Illinois, from Lake Michigan to Calumet Lake, to accompany report of W. G. Ewing, United States attorney, to the Attorney General, respecting cession of right of way for improvement of said river, under Act of Congress approved July 5, 1884", is abandoned as navigable water.

(Feb. 27, 1915, ch. 68, 38 Stat. 817.)

REFERENCES IN TEXT

Act of Congress approved July 5, 1884, referred to in text, is act July 5, 1884, ch. 229, 23 Stat. 143, which provided in part for the appropriation of $50,000 for the continuing improvement of the Calumet River, provided that no part of such appropriation be expended until the right of way should have been conveyed to the United States, free from expense, and the United States released from liability to adjacent property owners, to the satisfaction of the Secretary of War.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 26a of this title.

§ 26a. Additional portion of Calumet River, old channel, abandoned as navigable water

The portion of the old channel of the Calumet River in sections eighteen and nineteen, township thirty-seven north, range fifteen east, of the third principal meridian, in Cook County, Illinois, which lies outside of the new channel lines established by the United States and shown on the map referred to in section 26 of this title, and which lies outside of the exterior limits of the turning basin to be established on said Calumet River in said sections, is abandoned as navigable water of the United States from and after the time when the United States shall have secured title to the land necessary for the establishment of the turning basin at some point, to be approved by the Chief of Engineers, between One hundred and thirteenth Street and One hundred and seventeenth Street in the city of Chicago.

(Mar. 4, 1913, ch. 144, 37 Stat. 816.)

§ 26b. Portion of Calumet River, Chicago, as nonnavigable stream

The portion of the Calumet River, in the city of Chicago, county of Cook, State of Illinois, lying between the intersections of this river with the two lines described below, is a nonnavigable stream within the meaning of the Constitution and laws of the United States:

Beginning at a point on the south line of the north half of section 36, township 37 north, range 14 east, of the third principal meridian, one thousand eight hundred and seventy-three and seven-hundredths feet west of the east line of said section; thence northwesterly on a straight line to a point three thousand two hundred and eighty feet west of the east line and seven hundred and eighty-five feet south of the north line of said section; and

Beginning at a point five hundred and eighty-five feet east of the west line and seven hundred and thirty-two feet north of the south line of section 31, township 37 north, range 15 east, of the third principal meridian; thence north forty-six degrees and thirty minutes east along a straight line to the easterly water's edge of said river.

The right to alter, amend, or repeal this section is expressly reserved.

(June 14, 1937, ch. 338, §§ 2, 3, 50 Stat. 258, 259.)

§ 27. Chicago River at Chicago, Illinois

All of that portion of the West Fork of the South Branch of the Chicago River in the county of Cook and State of Illinois, extending west from the west line of the collateral channel of the sanitary district of Chicago, in the northwest quarter of section 36, township 39 north, range 13 east, of the third principal meridian, is declared to be a nonnavigable stream within the meaning of the Constitution and laws of the United States. The right of Congress to alter, amend, or repeal this provision is expressly reserved.

The provisions of sections 401 and 403 of this title shall not apply to that portion of the west arm of the South Fork of the South Branch of the Chicago River, lying between the east line of Ashland Avenue and the north line of Thirty-ninth Street, in the city of Chicago, Illinois, as the same now exists or may hereafter be extended. All rights, authority, or control over that part of the Chicago River possessed or assumed by the United States are relinquished and abandoned, and all rights, authority, or control over the same that were possessed by the State of Illinois are fully restored to said State.

As soon as the city of Chicago, or any other governmental agency or any corporation thereunto duly authorized by the Secretary of the Army, shall have constructed, after June 7, 1924, a new channel for the South Branch of the Chicago River between West Polk Street and West Nineteenth Street in said city of Chicago, then, and in that event, so much of the channel of the South Branch of the Chicago River as shall be superseded and replaced by said new channel in accordance with the permit of the Secretary of the Army shall be discontinued and abandoned.

(Jan. 24, 1923, ch. 33, §§ 1, 2, 42 Stat. 1171; Feb. 27, 1923, ch. 142, 42 Stat. 1323; June 7, 1924, ch. 337, 43 Stat. 646.)

CODIFICATION

The two sentences comprising paragraph 1 of this section are, respectively, sections 1 and 2 of act Jan. 24, 1923.

The second paragraph of this section is from act Feb. 27, 1923.

The last paragraph of this section is from act June 7, 1924.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

§ 27a. Chicago River, West Fork of South Branch

That portion of the West Fork of the South Branch of the Chicago River in Cook County, Illinois, lying between the west line (produced north) of the Collateral Channel of the Sanitary District of Chicago, in the northwest quarter of section 36, township 39 north, range 13 east, third principal meridian, and a line one thousand three hundred feet east of and parallel to the west line of section 30 (section line in South Western Avenue), township 39 north, range 13 east, third principal meridian, in the city of Chicago, Illinois, as the same now exists or may hereafter be extended, is declared to be a nonnavigable stream within the meaning of the Constitution and laws of the United States.

The right to alter, amend, or repeal this section is expressly reserved.

(Aug. 30, 1935, ch. 831, § 10, 49 Stat. 1048.)

§ 27b. Chicago River, West arm of South Fork of South Branch

The portion of the west arm of the South Fork of the South Branch of the Chicago River, as established by the ordinance of the city of Chicago on July 17, 1911, in the southwest quarter of section 32, township 39 north, range 14 east of the third principal meridian, in the city of Chicago, county of Cook, State of Illinois, lying westerly of a straight line drawn from a point in south dock line of the said west arm 203.94 feet westerly of the point of intersection of the south dock line of the said west arm with the west dock line of the east arm of the South Fork of the South Branch of the Chicago River as established by said city of Chicago ordinance of July 17, 1911, measured along the south dock line of said west arm, thence to a point in the north dock line of the said west arm said point being 278 feet westerly of the intersection of the north dock line of the said west arm with the west dock line of the South Fork of the South Branch of the Chicago River as established by said city of Chicago ordinance of July 17, 1911, measured along the north dock line of said west arm of the South Fork of the South Branch of the Chicago River, is declared to be and is on and after September 1, 1959 to be regarded as a nonnavigable water of the United States within the meaning of the Constitution and laws of the United States: *Provided*, That plans for a suitable bulkhead to retain any fill to be placed in the waterway shall be submitted to and approved by the Corps of Engineers, United States Army, prior to the placing of such fill.

(Pub. L. 86-218, Sept. 1, 1959, 73 Stat. 448.)

§ 28. Crum River; old channel at mouth, Delaware Bay

After the channel of the Crum River where the same empties into the Delaware River has been changed, diverted, and straightened under the authority given to Alba B. Johnson and Samuel M. Vauclain and the Baldwin Locomotive Works by Act July 27, 1916, chapter 260, the said Crum River, as so straightened, shall be a public navigable stream, and the course and channel of the said river, as it existed July 27, 1916, from the right-of-way of the Philadelphia and Reading Railway Company to the low-water line in the Delaware River shall be abandoned and vacated when the above-mentioned new channel shall have been completed to a depth of four feet at mean low water, with a bottom width of sixty-two feet and width of one hundred feet at mean low-water level: *Provided*, That the Government shall have such right, title, and interest in and to the bed of said new channel as will assure the public the right to the perpetual use of said channel for all the purposes of navigation and commerce.

(July 27, 1916, ch. 260, § 1, 39 Stat. 393.)

REFERENCES IN TEXT

Act July 27, 1916, chapter 260, referred to in text, is act July 27, 1916, ch. 260, 39 Stat. 393, which is classified to sections 7, 25, 28, 38, 424, and 648 to 650 of this title. For complete classification of this Act to the Code, see Tables volume.

CODIFICATION

Section is from a provision of section 1 of act July 27, 1916, popularly known as the Rivers and Harbors Appropriation Act of 1916.

The portion of that section authorizing the changing, diverting, and straightening of the channel of the river has been omitted as temporary and executed.

§ 29. Cuivre River, Missouri

Cuivre River, in the counties of Lincoln and Saint Charles, in the State of Missouri, being the dividing line, is declared not to be a navigable stream, and shall be so treated by the Secretary of the Army and all other authorities.

(Mar. 23, 1900, ch. 88, 31 Stat. 50.)

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

§ 29a. East River, Wisconsin

All of that portion of the East River, in the county of Brown, State of Wisconsin, extending from Baird Street, in the city of Green Bay, east and south is declared to be a nonnavigable stream within the meaning of the Constitution and Laws of the United States of America.

The right of Congress to alter, amend or repeal this section is expressly reserved.

(Aug. 30, 1935, ch. 831, § 9, 49 Stat. 1048.)

§ 30. Grand River, Missouri, above Brunswick

Grand River in the State of Missouri above the city of Brunswick, in the county of Chariton in said State, is declared to be not a navigable stream and shall be so treated by the Secretary of the Army and by all other authorities.

(Feb. 15, 1905, ch. 574, 33 Stat. 715.)

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

§ 31. Iowa River, Iowa, above Toolsboro

So much of the Iowa River within the State of Iowa, as lies north of the town of Wapello, and so much of the said river within the State of Iowa, as lies between the town of Toolsboro and the town of Wapello, in the county of Louisa, shall not be deemed a navigable river or public highway, but dams and bridges may be constructed across it.

(R.S. § 5248; Aug. 18, 1894, ch. 299, § 1, 28 Stat. 356.)

CODIFICATION

R.S. § 5248 is from Res. July 13, 1868, No. 55, 15 Stat. 257; act May 6, 1870, ch. 92, 16 Stat. 121.

The portion of this section relating to the Iowa river north of the town of Wapello is from R.S. § 5248.

The remainder the section, relating to so much of the river as lies between Toolsboro and Wapello, is from act Aug. 18, 1894.

§ 32. Lake George, Mississippi

Lake George, in Yazoo County, in the State of Mississippi, is declared to be not a navigable water of the United States within the meaning of the laws enacted by the Congress for the preservation and protection of such waters.

The right of Congress to alter, amend, or repeal this section is expressly reserved.

(May 24, 1922, ch. 198, §§ 1, 2, 42 Stat. 552.)

CODIFICATION

The two sentences comprising this section are respectively sections 1 and 2 of act May 24, 1922, entitled "An act declaring Lake George, Yazoo County, Mississippi, to be a nonnavigable stream".

§ 33. Little River, Arkansas, from Big Lake to Marked Tree

Little River, from Big Lake in Mississippi County to Marked Tree in Poinsett County, Arkansas, is declared to be not a navigable waterway of the United States within the meaning of the laws enacted by Congress for the protection of such waterways.

(Mar. 2, 1919, ch. 95, § 4, 40 Stat. 1287.)

CODIFICATION

Section is from section 4 of act Mar. 2, 1919, popularly known as the Rivers and Harbors Appropriation Act of 1919.

§ 34. Mill Slough, Oregon

Mill Slough, a tidal tributary of Coos Bay, lying within the limits of the city of Marshfield, State of Oregon, is declared to be not a navigable waterway of the United States, within the meaning of the laws enacted by Congress for the preservation and protection of such waterways, and the consent of Congress is given to the filling in of said slough by the said city of Marshfield.

(Oct. 23, 1913, ch. 33, 38 Stat. 233.)

§ 35. Mississippi River, West Channel, opposite La Crosse, Wisconsin

The branch of the Mississippi River flowing between Grand Island and the mainland opposite the city of La Crosse, State of Wisconsin, and known as the West Channel, is declared unnavigable, and the said city of La Crosse is relieved of the necessity of maintaining a draw or pontoon bridge over said West Channel.

(Feb. 23, 1901, ch. 470, 31 Stat. 804.)

§ 36. Mosquito Creek, South Carolina

Mosquito Creek, in Colleton County, South Carolina, is declared to be a nonnavigable stream within the meaning of the Constitution and laws of the United States.

(Aug. 8, 1917, ch. 49, § 15, 40 Stat. 268.)

§ 37. Nodaway River, Missouri

Nodaway River, in the counties of Andrew, Holt, and Nodaway, in the State of Missouri, is declared to be not a navigable water of the United States within the meaning of the laws enacted by Congress for the preservation and protection of such waters.

The right to alter, amend, or repeal this section is expressly reserved.

(Feb. 15, 1910, ch. 32, §§ 1, 2, 36 Stat. 194.)

§ 38. Oklawaha River, Florida; Kyle and Young Canal and "Morrison Landing extension" substituted

Upon the conveyance to the United States, free of cost, title to the land occupied by what is known as the "Kyle and Young Canal" and the "Morrison Landing extension" of the same, on the Oklawaha River, in the State of Florida, together with title to a strip of land on the east side of said canal of such width as in the judgment of the Secretary of the Army may be required for the future widening of said canal and extension by the United States, the said canal and extension shall become a free public water-

way of the United States in place of the natural bed of the river.

(July 27, 1916, ch. 260, § 1, 39 Stat. 396.)

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

§ 39. Ollala Slough, Oregon

All of that portion of Ollala Slough in Lincoln County, Oregon, above a point where a line that is one hundred and twenty rods south and running east and west and parallel with the section line between sections 8 and 17 in township 11 south, range 10 west of the Willamette meridian, crosses said stream, is declared to be a nonnavigable stream.

(Feb. 26, 1917, ch. 119, 39 Stat. 937.)

§ 40. One Hundred and Two River, Missouri

One Hundred and Two River south of the north boundary line of Andrew County, Missouri, as now located, is declared to be not a navigable water of the United States within the meaning of the laws enacted by Congress for the preservation and protection of such waters.

The right to alter, amend, or repeal this section is expressly reserved.

(Feb. 15, 1910, ch. 31, §§ 1, 2, 36 Stat. 194.)

§ 41. Osage River, Missouri

The Osage River in the State of Missouri above the point where the south line of sections 15 and 16 in township 40 north, of range 22 west, of the fifth principal meridian, and in the county of Benton, State of Missouri, crosses said river, is declared not to be a navigable stream, and shall be so treated by the Secretary of the Army and by all other authorities.

(Mar. 4, 1904, ch. 393, 33 Stat. 58.)

CODIFICATION

This section superseded act June 24, 1902, ch. 1154, 32 Stat. 398, which declared that the Osage River above the point where the dividing line between the counties of Benton and Saint Clair crosses the river should not be a navigable stream.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

§ 42. Platte River, Missouri

The Platte River in the State of Missouri is declared to be a nonnavigable stream within the meaning of the Constitution and laws of the United States, and jurisdiction over said river is declared to be vested in the State of Missouri.

The right of Congress to alter, amend, or repeal this section is expressly reserved.

(Feb. 16, 1921, ch. 62, §§ 1, 2, 41 Stat. 1105.)

CODIFICATION

The two sentences of this section are, respectively, from sections 1 and 2 of act Feb. 16, 1921, entitled "An Act declaring the Platte River to be a nonnavigable stream".

§ 43. Saint Marys River, Ohio and Indiana

Saint Marys River, Ohio and Indiana, is declared to be a nonnavigable stream within the meaning of the Constitution and laws of the United States.

(Aug. 8, 1917, ch. 49, § 17, 40 Stat. 268.)

§ 44. Sturgeon Bay, Illinois

So much of the west fork of Sturgeon Bay within the county of Mercer and State of Illinois as lies west of the line between the east half and the west half of the east half of section 25, in township 14 north, range 6 west of the fourth principal meridian, and so much of the east fork of said Sturgeon Bay as lies north of the north line of section 30, in township 14 north, range 5 west of the fourth principal meridian, shall not be deemed navigable waters of the United States.

(Feb. 7, 1907, No. 13, 34 Stat. 1421.)

§ 45. Swan Creek, Toledo, Ohio

Swan Creek, a stream lying within the limits of the city of Toledo, State of Ohio, is declared to be not a navigable waterway of the United States within the meaning of the laws enacted by Congress for the preservation and protection of such waterways, and the consent of Congress is given for the filling in of said creek by the local authorities.

(Mar. 4, 1915, ch. 142, § 13, 38 Stat. 1055.)

CODIFICATION

Section is from act Mar. 4, 1915, popularly known as the Rivers and Harbors Appropriation Act of 1915.

§ 46. Tchula Lake, Mississippi

Tchula Lake, in Holmes County, in the State of Mississippi, is declared to be a nonnavigable stream within the meaning of the Constitution and laws of the United States.

The right of Congress to alter, amend, or repeal this section is expressly reserved.

(July 1, 1922, ch. 266, §§ 1, 2, 42 Stat. 816.)

CODIFICATION

The two sentences comprising this section are, respectively, sections 1 and 2 of act July 1, 1922, entitled "An act declaring Tchula Lake, Holmes County, Mississippi, to be a nonnavigable stream".

§ 47. Eagle Lake, Louisiana-Mississippi

Eagle Lake, which lies partly within the limits of the State of Mississippi, in Warren County, and partly within the limits of the State of Louisiana, in Madison Parish, is declared to be a nonnavigable stream within the

meaning of the Constitution and laws of the United States.

The right to alter, amend, or repeal this section is expressly reserved.

(June 2, 1926, ch. 445, §§ 1, 2, 44 Stat. 681.)

§ 48. Noxubee River, Mississippi

That portion of the Noxubee River in Noxubee County, in the State of Mississippi is declared to be a nonnavigable stream within the meaning of the Constitution and laws of the United States.

The right of Congress to amend or repeal this section is expressly reserved.

(Feb. 24, 1934, ch. 25, §§ 1, 2, 48 Stat. 356.)

§ 49. Bayou Saint John in New Orleans

Bayou Saint John, in the city of New Orleans, Louisiana, is declared to be not a navigable water of the United States within the meaning of the laws enacted by Congress for the preservation and protection of such waters.

The right to alter, amend, or repeal this section is expressly reserved.

(June 5, 1936, ch. 530, §§ 1, 2, 49 Stat. 1484.)

§ 50. Turtle Bay and Turtle Bayou, Texas

Turtle Bay and Turtle Bayou, in Chambers County, in the State of Texas, are declared to be nonnavigable waterways within the meaning of the Constitution and laws of the United States of America.

The existing project for Turtle Bayou, Texas, authorized by the Rivers and Harbors Act approved June 25, 1910 (Act June 25, 1910, ch. 382, 36 Stat. 630), is abandoned.

The right of Congress to alter, amend, or repeal this section is expressly reserved.

(Mar. 10, 1937, ch. 36, §§ 1-3, 50 Stat. 28.)

REFERENCES IN TEXT

The Rivers and Harbors Act approved June 25, 1910, referred to in text, is act June 25, 1910, ch. 382, 36 Stat. 630, which is classified to sections 546, 564, and 643 of this title. For complete classification of this Act to the Code, see Tables volume.

§ 51. Scajaquada Creek, New York

Scajaquada Creek, Erie County, New York, is declared to be nonnavigable east of a line one hundred and thirty feet west of the west line of Niagara Street, city of Buffalo, county of Erie, New York, within the meaning of the Constitution and laws of the United States.

The right to alter, amend, or repeal this section is expressly reserved.

(May 14, 1937, ch. 183, §§ 1, 2, 50 Stat. 165.)

§ 52. Park River, Connecticut

The Park River, a minor tributary of the Connecticut River, located in Hartford County, Connecticut, is declared to be a nonnavigable waterway within the meaning of the Constitution and laws of the United States of America.

The right of Congress to alter, amend, or repeal this section is expressly reserved.

(May 24, 1937, ch. 246, §§ 1, 2, 50 Stat. 201.)

§ 53. Benton Harbor Canal, Michigan

The Benton Harbor Canal at and above the west line of Ninth Street, in the city of Benton Harbor and State of Michigan, is declared to be not a navigable water of the United States within the meaning of the Constitution and laws of the United States.

The right to alter, amend, or repeal this section is expressly reserved.

(June 2, 1937, ch. 288, §§ 1-3, 50 Stat. 243.)

§ 53a. Additional portion of Benton Harbor Canal, abandoned as navigable water

The Benton Harbor Canal, from the west line of Ninth Street extended northerly to the west line of Riverview Drive extended northerly in the city of Benton Harbor and State of Michigan, be, and the same is hereby, declared to be not a navigable water of the United States within the meaning of the Constitution and laws of the United States.

(Pub. L. 88-88, § 1, Aug. 5, 1963, 77 Stat. 118.)

§ 54. Burr Creek, Bridgeport, Connecticut

That portion of Burr Creek in the city of Bridgeport, Connecticut, lying north of a line across the creek beginning at the point of intersection of the south side of Yacht Street extended and the west harbor line of the harbor lines established by the Secretary of War December 9, 1924, thence south eighty-five degrees forty-six minutes seventeen seconds east to the east harbor line of said creek, is declared to be not a navigable water of the United States within the meaning of the Constitution and laws of the United States.

Any project heretofore authorized by any Act of Congress, insofar as such project relates to the above described portion of Burr Creek in the city of Bridgeport, Connecticut, is abandoned.

The right to alter, amend, or repeal this section is expressly reserved.

(Aug. 12, 1937, ch. 607, §§ 1-3, 50 Stat. 632.)

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

§ 55. Bayou Savage (or Chantilly) in New Orleans

Bayou Savage, also styled Bayou Chantilly, in the city of New Orleans, Louisiana, is declared to be a nonnavigable waterway within the meaning of the Constitution and laws of the United States.

The right to alter, amend, or repeal this section is expressly reserved.

(Aug. 16, 1937, ch. 650, §§ 1, 2, 50 Stat. 649.)

§ 56. Fort Point Channel and South Bay, Boston, Massachusetts

The portion of the tidewaters in the waterway in which is located Fort Point Channel and South Bay in the city of Boston, Massachusetts, lying above the easterly side of the highway bridge over Fort Point Channel at Dorchester Avenue in the city of Boston is declared to be a nonnavigable water of the United States within the meaning of the Constitution and laws of the United States.

The right to alter, amend, or repeal this section is expressly reserved.

(May 13, 1955, ch. 37, §§ 1, 2, 69 Stat. 48.)

§ 57. Pike Creek, Wisconsin

Pike Creek, in the State of Wisconsin, above the easterly side of the highway bridge at Sixth Avenue in the city of Kenosha is declared to be a nonnavigable stream within the meaning of the Constitution and laws of the United States.

The right to alter, amend, or repeal this section is expressly reserved.

(July 26, 1955, ch. 377, §§ 1, 2, 69 Stat. 373.)

§ 58. Acushnet River section of New Bedford and Fairhaven Harbor, Massachusetts

The portion of the waterway in the city of New Bedford and the towns of Fairhaven and Acushnet lying north of the Coggeshall Street Bridge (north 41 degrees 31 minutes 00 seconds), is declared to be a nonnavigable water of the United States within the meaning of the Constitution and laws of the United States. Any project heretofore authorized by any Act of Congress, insofar as such project relates to the above-described portions of the Acushnet River section of New Bedford and Fairhaven Harbor, is hereby abandoned.

The right to alter, amend, or repeal this section is expressly reserved.

(Aug. 3, 1955, ch. 495, 69 Stat. 443.)

§ 59. West River in West Haven, Connecticut

The portion of the waterway in which is located the West River in the town of West Haven, Connecticut, and the city of New Haven, Connecticut, lying northerly of a line extending north 85 degrees 54 minutes 43.5 seconds east, from a point (1,158.535 feet from the most westerly corner of the existing bulkhead and pier line) whose coordinates in the Corps of Engineers Harbor Line System are north 4,616.76 and west 9,450.80, is declared to be a nonnavigable water of the United States within the meaning of the Constitution and laws of the United States.

The line hereinbefore described shall be established as a combined pierhead and bulkhead line of the West River.

Any project heretofore authorized by an Act of Congress, insofar as such project relates to the above-described portion of the West River, is hereby abandoned.

The right to alter, amend, or repeal this section is expressly reserved.

(Aug. 9, 1955, ch. 649, §§ 1-4, 69 Stat. 576.)

§ 59a. Back Cove, Portland, Maine

(a) Portion declared nonnavigable

That portion of Back Cove at Portland, Maine, lying southerly of a line across the twelve-foot Federal project channel in Back Cove twenty-five hundred feet upstream from the Tukey Bridge, to the head of Back Cove, is declared to be a nonnavigable water of the United States within the meaning of the Constitution and laws of the United States.

(b) Portion abandoned

That portion of the twelve-foot Federal project channel in Back Cove lying southerly of a line across the channel twenty-five hundred feet upstream from the Tukey Bridge, to the head of Back Cove, a distance of approximately thirty-five hundred feet, is abandoned.

(c) Preservation of right to alter, amend or repeal section

The right to alter, amend, or repeal this section is expressly reserved.

(Pub. L. 85-126, Aug. 13, 1957, 71 Stat. 344.)

§ 59b. Bayous Terrebonne and LeCarpe, Louisiana

Bayou Terrebonne west of Barrow Street and Bayou LeCarpe west of the Intracoastal Waterway in the city of Houma, State of Louisiana, are declared to be not navigable waters of the United States within the meaning of the Constitution and laws of the United States.

The right to alter, amend, or repeal this section is expressly reserved.

(Pub. L. 86-226, §§ 2, 3, Sept. 8, 1959, 73 Stat. 455.)

§ 59c. East River, New York

That portion of the East River, in New York County, State of New York, lying between the south line of East Seventeenth Street, extended eastwardly, the United States pierhead line as it existed on July 1, 1965, and the south line of East Thirtieth Street, extended eastwardly, is hereby declared to be not a navigable water of the United States within the meaning of the Constitution and the laws of the United States.

(Pub. L. 89-298, title III, § 307, Oct. 27, 1965, 79 Stat. 1094.)

§ 59c-1. East and Hudson Rivers, New York

Those portions of the East and Hudson Rivers in New York County, State of New York, lying shoreward of a line within the United States Pierhead Line as it exists on August 13, 1968, and bounded on the north by the north side of Spring Street extended westerly and the south side of Robert F. Wagner, Senior Place extended eastwardly, are hereby declared to be nonnavigable waters of the United States within the meaning of the laws of the United States. This declaration shall apply only to portions of the above-described area which are bulkheaded and filled. Plans for bulkheading and filling shall be approved by the Secretary of the Army, acting through the Chief of Engineers, on the basis of engineering studies to determine the location and structural stability of the bulkheading and filling in order to preserve and maintain the remaining navigable water-

way. Local interests shall reimburse the Federal Government for any engineering costs incurred under this section.

(Pub. L. 90-483, title I, § 113, Aug. 13, 1968, 82 Stat. 736.)

§ 59c-2. East River, New York

If the Secretary of the Army, acting through the Chief of Engineers, finds that the proposed project to be erected at the location to be declared non-navigable under this section is in the public interest, on the basis of engineering studies to determine the location and structural stability of the bulkheading and filling and permanent pile-supported structures in order to preserve and maintain the remaining navigable waterway and on the basis of environmental studies conducted pursuant to the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.], then those portions of the East River in New York County, State of New York, bounded and described as follows are hereby declared to be not navigable waters of the United States within the meaning of the laws of the United States, and the consent of Congress is hereby given to the filling in of all or any part thereof or the erection of permanent pile-supported structures thereon: That portion of the East River in New York County, State of New York, lying shoreward of a line with the United States pierhead line as it exists on March 7, 1974, bounded on the north by the south side of Rutgers Slip extended easterly, and bounded on the south by the southeasterly border of Battery Park at a point adjacent to the westerly end of South Street extended south by southwest, is hereby declared to be non-navigable waters of the United States. This declaration shall apply only to portions of the above-described area which are bulkheaded and filled or occupied by permanent pile-supported structures. Plans for bulkheading and filling and permanent pile-supported structures shall be approved by the Secretary of the Army, acting through the Chief of Engineers. Local interests shall reimburse the Federal Government for engineering and all other costs incurred under this section.

(Pub. L. 93-251, title I, § 51, Mar. 7, 1974, 88 Stat. 26.)

References in Text

The National Environmental Policy Act of 1969, referred to in text, is Pub. L. 91-190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§ 4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables volume.

§ 59d. River Raisin, Michigan

The old channel of the River Raisin in Monroe County, Michigan, lying between the Monroe Harbor range front light and Raisin Point, its entrance into Lake Erie, is declared to be not a navigable stream of the United States within the meaning of the Constitution and the laws of the United States, and the consent of Congress is hereby given for the filling in of the old channel by the riparian owners on such channel.

(Pub. L. 89-298, title III, § 308, Oct. 27, 1965, 79 Stat. 1094.)

§ 59e. Bayou Lafourche, Louisiana

Bayou Lafourche, in the State of Louisiana, between Canal Boulevard, city of Thibodaux, Parish of Lafourche, State of Louisiana, and the head of the bayou at its junction with the Mississippi River levee at the city of Donaldsonville, Parish of Ascension, State of Louisiana, is hereby declared to be a nonnavigable waterway of the United States within the meaning of the laws of the United States. The existing project for Bayou Lafourche, Louisiana, authorized by the Acts of August 30, 1935 (49 Stat. 1028) and July 14, 1960 (74 Stat. 480) is hereby deauthorized in the reach of Bayou Lafourche herein declared nonnavigable.

The right to alter, amend, or repeal this section is hereby expressly reserved.

(Pub. L. 90-149, §§ 1, 2, Nov. 22, 1967, 81 Stat. 507.)

References in Text

The provisions of the Acts of August 30, 1935 (49 Stat. 1028) and July 14, 1960 (74 Stat. 480), referred to in text, authorizing the Bayou Lafourche, Louisiana, project, were not classified to the Code.

§ 59f. Boston Inner Harbor and Fort Point Channel, Massachusetts

That portion of Boston Inner Harbor and Fort Point Channel in Suffolk County, Commonwealth of Massachusetts, lying within the following described area is hereby declared to be not a navigable water of the United States within the meaning of the laws of the United States: Beginning at the intersection of the northeasterly sideline of Northern Avenue and the westerly United States Pierhead Line of the Fort Point Channel and running northwesterly by the northwesterly sideline of Northern Avenue to the westerly sideline of Atlantic Avenue: thence turning and running northerly and northwesterly by the westerly sideline of Atlantic Avenue and of Commercial Street to the southeasterly sideline of Hanover Street; thence turning and running northeasterly by the southeasterly sideline of Hanover Street to the southwesterly property line of the United States Coast Guard Base; thence turning and running southeasterly by the southwesterly property line of the United States Coast Guard Base to the southeasterly property line of the United States Coast Guard Base; thence turning and running northeasterly by the southeasterly property line of the United States Coast Guard Base extended to the United States Pierhead Line; thence turning and running southeasterly, southerly and southwesterly by the United States Pierhead Line, to the point of beginning.

(Pub. L. 90-312, May 18, 1968, 82 Stat. 125.)

§ 59g. Steele and Washington Bayous, and Lake Washington, Mississippi

Steele Bayou, in Warren, Issaquena, Sharkey, and Washington Counties, Mississippi, Washington Bayou, in Issaquena and Washington Counties, Mississippi, and Lake Washington, in Washington County, Mississippi, are hereby de-

clared to be nonnavigable within the meaning of the laws of the United States.

(Pub. L. 90–483, title I, § 108(a), Aug. 13, 1968, 82 Stat. 735.)

§ 59h. Northern Embarcadero area, San Francisco, California

That portion of the Northern Embarcadero area, beginning at the intersection of the northwesterly line of Bryant Street with the southwesterly line of Spear Street, which intersection lies on the line of jurisdiction of the San Francisco Port Authority; following thence westerly and northerly along said line of jurisdiction as described in the State of California Harbor and Navigation Code Section 1770, as amended in 1961, to its intersection with the easterly line of Van Ness Avenue produced northerly; thence northerly along said easterly line of Van Ness Avenue produced to its intersection with the United States Government pier-head line; thence following said pier-head line easterly and southerly to its intersection with the northwesterly line of Bryant Street produced northeasterly; thence southwesterly along said northwesterly line of Bryant Street produced to the point of beginning, is hereby declared to be nonnavigable waters within the meaning of the laws of the United States, and the consent of Congress is hereby given for the filling in of all or any part of the described area. This declaration shall apply only to portions of the above-described area which are bulkheaded and filled or are occupied by permanent pile-supported structures. Plans for bulkheading and filling and permanent pile-supported structures shall be approved by the Secretary of the Army, acting through the Chief of Engineers, on the basis of engineering studies to determine the location and structural stability of the bulkheading and filling and permanent pile-supported structures in order to preserve and maintain the remaining navigable waterway. Local interests shall reimburse the Federal Government for any engineering costs incurred under this section.

(Pub. L. 90–483, title I, § 114, Aug. 13, 1968, 82 Stat. 736.)

References in Text

Section 1770 of the State of California Harbor and Navigation Code was repealed by Cal. Stats. 1970, ch. 385, p. 799, § 2.

§ 59i. Patapsco River, Maryland

That portion of the Northwest Branch of the Patapsco River located generally south of Pratt Street, east of Light Street, north of Key Highway, in the city of Baltimore, State of Maryland, and being more particularly described as all of that portion of the Northwest Branch of the Patapsco River lying west of a series of lines beginning at the point formed by the intersection of the south side of Pratt Street, as now laid out, and the west side of Pier 3 and running thence binding on the west side of Pier 3, south 04 degrees 19 minutes 47 seconds east 726.59 feet to the southwest corner of Pier 3; thence crossing the Northwest Branch of the Patapsco River, south 23 degrees 01 minutes 15 seconds west 855.36 feet to the point formed by the intersection of the existing pierhead and bulkhead line and the east side of Battery Avenue, last said point of intersection being the end of the first line of the fourth parcel of land conveyed by J. and F. Realty, Incorporated to Allegheny Pepsi-Cola Bottling Company by deed dated December 22, 1965, and recorded among the Land Record of Baltimore City in Liber J. F. C. numbered 2006 folio 345, the location of said pierhead and bulkhead line is based upon the Corps of Engineers, Baltimore District, Baltimore, Maryland, coordinate value for station LIV of said pierhead and bulkhead line, the coordinate value as referred to the Lambert grid plane coordinate system for the State of Maryland of said station LIV being east 2,111,161.40, north 527,709.27 and thence binding on the east side of Battery Avenue, south 03 degrees 09 minutes 07 seconds east 568 feet, more or less, to intersect the north side of Key Highway as now laid out and located is hereby declared to be not a navigable stream of the United States within the meaning of the laws of the United States, and the consent of Congress is hereby given for the filling in of all or any part of the described area.

(Pub. L. 90–483, title I, § 115, Aug. 13, 1968, 82 Stat. 736.)

§ 59j. Delaware River, Philadelphia County, Pennsylvania; permanent structures

That portion of the Delaware River in Philadelphia County, Commonwealth of Pennsylvania, lying between all that certain lot or piece of ground situate in the second and fifth wards of the city of Philadelphia described as follows:

Beginning at a point on the easterly side of Delaware Avenue (variable width) said side being the bulkhead line of the Delaware River (approved by the Secretary of War on September 10, 1940), at the distance of 1,833.652 feet from an angle point on the easterly side of said Delaware Avenue south of Washington Avenue;

thence extending along the easterly side of said Delaware Avenue the following courses and distances, (1) north 0 degree 45 minutes 33.2 seconds west 2,524.698 feet to a point; (2) north 9 degrees 36 minutes 25 seconds east, 2,168.160 feet to a point; (3) north 13 degrees 26 minutes 45.8 seconds east, 2,039.270 feet to a point; (4) north 20 degrees 12 minutes 52.4 seconds east, 35.180 feet to an angle point in Delaware Avenue; thence continuing north 20 degrees 12 minutes 52.4 seconds east along the said bulkhead line, the distance of 574.970 feet to a point on the south house line of Callowhill Street produced;

thence extending along the south house line of Callowhill Street produced south 80 degrees 47 minutes 30.6 seconds east, the distance of 523.908 feet to a point on the pierhead line of the Delaware River (approved by the Secretary of War on September 10, 1940);

thence extending along the said pierhead line the following courses and distances, (1) south 17 degrees 52 minutes 48.5 seconds west, 605.262 feet to a point; (2) south 14 degrees 14 minutes 14.7 seconds west, 1,372.530 feet to a point; (3) south 10 degrees 37 minutes 35.3 seconds west, 1,252.160 feet to a point; (4) south 8 degrees 23 minutes 50.4 seconds west, 1,450.250 feet to a point; (5) south

2 degrees 22 minutes 45.9 seconds west, 1,221.670 feet to a point; (6) south 1 degree 4 minutes 36 seconds east, 1,468.775 feet to a point on the north house line of Catherine Street extended, thence extending north 76 degrees 56 minutes 29.2 seconds west, the distance of 555.911 feet to the first-mentioned point and place of beginning is hereby declared not to be a navigable water of the United States within the meaning of the Constitution and laws of the United States, and the Consent of Congress is hereby given, for the filling or erection of permanent structures in all or any part of the described area.

(Pub. L. 92-605, § 1, Oct. 31, 1972, 86 Stat. 1493.)

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

PERMANENT STRUCTURES IN ABOVE-DESCRIBED AREA; APPROVAL OF PLANS

Section 2 of Pub. L. 92-605 provided that: "This declaration [this section] shall apply only to portions of the above-described area which are filled or occupied by permanent structures. No such filling or erection of structures in the above-described area shall be commenced until the plans therefor have been approved by the Secretary of the Army who shall, prior to granting such approval, give consideration to all factors affecting the general public interest and the impact of the proposed work on the environment."

§ 59k. Wicomico River, Maryland

(a) If the Secretary of the Army acting through the Chief of Engineers, finds that the proposed project in Salisbury, Maryland, to be undertaken at the locations to be declared nonnavigable under this section is in the public interest, on the basis of engineering studies to determine the location and structural stability of any bulkheading and filling and permanent pile-supported structures, in order to preserve and maintain the remaining navigable waterway and on the basis of environmental studies conducted pursuant to the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.], then those portions of the South Prong of the Wicomico River in Wicomico County, State of Maryland, bounded and described as follows, are declared to be not a navigable water of the United States within the meaning of the laws of the United States, and the consent of Congress is hereby given, consistent with subsection (b) of this section, to the filling in of a part thereof or the erection of permanent pile-supported structures thereon: That portion of the South Prong of the Wicomico River in Salisbury, Maryland, bounded on the east by the west side of United States Route 13; on the west by the west side of the Mill Street Bridge; on the south by a line five feet landward from the present water's edge at high tide extending the entire length of the South Prong from the east boundary at United States Route 13 to the west boundary at the Mill Street Bridge; and on the north by a line five feet landward from the present water's edge at high tide extending the entire length of the South Prong from the east boundary at United States Route 13 to the west boundary at the Mill Street Bridge.

(b) This declaration shall apply only to the portions of the areas described in subsection (a) of this section which are bulkheaded and filled or occupied by permanent pile-supported structures. Plans for bulkheading and filling and permanent pile-supported structures shall be approved by the Secretary of the Army, acting through the Chief of Engineers. Such bulkheaded and filled areas or areas occupied by permanent pile-supported structures shall not reduce the existing width of the Wicomico River to less than sixty feet and a minimum depth of five feet shall be maintained within such sixty-foot width of the Wicomico River. Local interests shall reimburse the Federal Government for engineering and all other costs incurred under this section.

(Pub. L. 93-251, title I, § 97, Mar. 7, 1974, 88 Stat. 40.)

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in text, is Pub. L. 91-190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§ 4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables volume.

§ 59l. Nonapplicability of prohibitions and provisions for review and approval concerning wharves and piers

The prohibitions and provisions for review and approval concerning wharves and piers in waters of the United States as set forth in sections 403 and 565 of this title shall not apply to any body of water located entirely within one State which is, or could be, considered to be a navigable body of water of the United States solely on the basis of historical use in interstate commerce.

(Pub. L. 94-587, § 154, Oct. 22, 1976, 90 Stat. 2932.)

§ 59m. Lake Oswego, Oregon; Lake Coeur d'Alene, Idaho; and Lake George, New York

For the purposes of section 403 of this title the following bodies of water are declared nonnavigable: Lake Oswego, Oregon; Lake Coeur d'Alene, Idaho; and Lake George, New York.

(Pub. L. 94-587, § 162, Oct. 22, 1976, 90 Stat. 2934.)

CODIFICATION

"Section 403 of this title" was substituted for "section 10 of the Act of March 3, 1899 (30 Stat. 1151) (33 U.S.C. 401)" as the probable intent of Congress in that section 10 of said act is set out as section 403 of this title while section 401 of this title is based on section 9 of the act of Mar. 3, 1899.

§ 59n. Hudson River, Hudson County, New Jersey

(a) If the Secretary of the Army, acting through the Chief of Engineers, finds that the proposed project to be erected at the location to be declared nonnavigable under this section

is in the public interest, on the basis of engineering studies to determine the location and structural stability of any bulkheading and filling and permanent pile-supported structure, in order to preserve and maintain the remaining navigable waterway and on the basis of environmental studies conducted pursuant to the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.], then that portion of the Hudson River in Hudson County, State of New Jersey, bounded and described as follows is hereby declared to be nonnavigable water of the United States within the meaning of the laws of the United States, and the consent of Congress is hereby given to the filling in of all or any part thereof and the erection of permanent pile-supported structures thereon:

Such portion is in the township of North Bergen in the county of Hudson and State of New Jersey, and is more particularly described as follows: At a point in the easterly right-of-way of New Jersey Shore Line Railroad (formerly New Jersey Junction Railroad) said point being located northerly, measured along said easterly right-of-way, 81.93 feet from Station 54+42.4 as shown on construction drawing dated May 23, 1931, of River Road, filed in the Office of the Hudson County Engineer, Jersey City, New Jersey:

thence (1) northerly and along said easterly right-of-way on a bearing of north 12 degrees 11 minutes 14 seconds east, a distance of 280 feet to a point;

thence (2) south 75 degrees 28 minutes 24 seconds east, a distance of 310 feet to a point;

thence (3) south 17 degrees 15 minutes 41 seconds east, a distance of 101.70 feet to a point;

thence (4) south 62 degrees 18 minutes 12 seconds east a distance of 355.64 feet to a point in the exterior solid fill line of April 7, 1903, and the bulkhead line of April 28, 1904, on the Hudson River;

thence (5) along said exterior solid fill and bulkhead lines south 28 degrees 55 minutes 51 seconds west, a distance of 523 feet to a point in the northerly line of lands now or formerly of New York State Realty and Terminal Company;

thence (6) north 61 degrees 34 minutes 29 seconds west, and along said northerly line of the New York State Realty and Terminal Company, a distance of 590.08 feet to a point in the aforementioned easterly right-of-way of the New Jersey Shore Line Railroad;

thence (7) northerly and along said easterly right-of-way of the New Jersey Shore Line Railroad on a curve to the left a radius of 995.09 feet, an arc length of 170.96 feet to a point therein;

thence (8) northerly, still along the same, on a bearing of north 12 degrees 11 minutes 14 seconds east, a distance of 81.93 feet to the point and place of beginning.

Said parcel containing 8 acres being the same more or less.

(b) The declaration in subsection (a) of this section shall apply only to portions of the above-described area which are either bulkheaded and filled or occupied by permanent pile-supported structures. Plans for bulkheading and filling and permanent pile-supported structures shall be approved by the Secretary of the Army, acting through the Chief of Engineers. Local interests shall reimburse the Federal Government for engineering and all other costs incurred under this section.

(Pub. L. 94-587, § 178, Oct. 22, 1976, 90 Stat. 2937.)

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsec. (a), is Pub. L. 91-190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§ 4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables volume.

§ 590. Hackensack River, Hudson County, New Jersey

(a) If the Secretary of the Army, acting through the Chief of Engineers finds that the proposed project to be erected at the location to be declared nonnavigable under this section is in the public interest, on the basis of engineering studies to determine the location and structural stability of any bulkheading and filling and permanent pile-supported structure, in order to preserve and maintain the remaining navigable waterway, and on the basis of environmental studies conducted pursuant to the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.], then those portions of the Hackensack River in Hudson County, State of New Jersey, bounded and described as follows are hereby declared to be nonnavigable waters of the United States within the meaning of the laws of the United States, and the consent of Congress is hereby given to the filling in of all or any part thereof and the erection of permanent pile-supported structures thereon:

Beginning at a point where the southeasterly shoreline (mean high water line) of the Hackensack River intersects the easterly line of the Erie Railroad said point property being 2,015.38 feet northerly along said railroad property from where it intersects the northerly line of the Meadowlands Parkway (100 feet wide) and running from:

thence north 19 degrees 20 minutes 54 seconds west 50.00 feet;

thence north 37 degrees 30 minutes 08 seconds east 615.38 feet;

thence north 03 degrees 02 minutes 56 seconds east, 2,087 feet;

thence north 31 degrees 11 minutes 06 seconds east 577 feet;

thence north 74 degrees 29 minutes 18 seconds east 541.25 feet;

thence south 62 degrees 01 minutes 31 seconds east 400 feet;

thence south 55 degrees 46 minutes 27 seconds east 612.52 feet;

thence south 34 degrees 13 minutes 33 seconds west 517.79 feet;

thence south 55 degrees 46 minutes 27 seconds east 158.81 feet;

thence south 34 degrees 13 minutes 33 seconds west 310 feet;

thence north 55 degrees 26 minutes 27 seconds north 15 feet;

thence south 34 degrees 13 minutes 33 seconds west 592 feet;

thence running in a southwesterly direction along the shoreline (mean high water line) of the Hackensack River, a distance of 2,360 feet being the same more or less to the easterly property line of the Erie Railroad and the point or place of beginning.

Said parcel containing 67.6 acres being the same more or less.

(b) The declaration in subsection (a) of this section shall apply only to portions of the described area which are either bulkheaded and filled or occupied by permanent pile-supported structures. Plans for bulkheading and filling and permanent pile-supported structures shall be approved by the Secretary of the Army, acting through the Chief of Engineers. Local interests shall reimburse the Federal Government for engineering and all other costs incurred under this section.

(Pub. L. 94-587, § 179, Oct. 22, 1976, 90 Stat. 2938.)

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsec. (a), is Pub. L. 91-190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§ 4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables volume.

CHAPTER 2—INTERNATIONAL RULES FOR NAVIGATION AT SEA

§§ 61 to 63. Repealed. Oct. 11, 1951, ch. 495, § 5, 65 Stat. 407.

Section 61, acts Aug. 19, 1890, ch. 802, § 1, 26 Stat. 320; Feb. 19, 1895, ch. 102, 28 Stat. 672; June 7, 1897, ch. 4, § 1, 30 Stat. 96, related to adoption of rules for navigation on high seas and is now covered by section 1051 of this section 1061 of this title.

Section 62, act Aug. 19, 1890, ch. 802, § 1, 26 Stat. 320, 321, defined "sailing vessel", "steam vessel", "under way" and is now covered by section 1061 of this title.

Section 63, act Aug. 19, 1890, ch. 802, § 1, 26 Stat. 321, defined "visible" and is now covered by section 1061 of this title.

EFFECTIVE DATE OF REPEAL

Section 5 of act Oct. 11, 1951, provided that the repeal of sections 61 to 63 of this title was to be effective upon the taking effect of regulations proclaimed under section 1 of act Oct. 11, 1951. Such regulations were proclaimed by Proc. No. 3030 of Aug. 1, 1953, 18 F.R. 4983, and were to be effective Jan. 1, 1954.

§§ 71 to 84. Repealed. Oct. 11, 1951, ch. 495, § 5, 65 Stat. 407

Section 71, act Aug. 19, 1890, ch. 802, § 1, 26 Stat. 321, provided that rules concerning lights be complied with from sunset to sunrise, and is now covered by section 1061 of this title.

Section 72, act Aug. 19, 1890, ch. 802, § 1, 26 Stat. 321, related to lights of steam vessel under way, and is now covered by section 1062 of this title.

Section 73, act Aug. 19, 1890, ch. 802, § 1, 26 Stat. 321, related to lights of vessel towing another vessel or vessels, and is now covered by section 1063 of this title.

Section 74, act Aug. 19, 1890, ch. 802, § 1, 26 Stat. 322, related to lights and day signals of vessel not under control and of telegraph cable vessel, and is now covered by section 1064 of this title.

Section 75, act Aug. 19, 1890, ch. 802, § 1, 26 Stat. 322, related to lights of sailing vessel under way and of vessel in tow, and is now covered by section 1065 of this title.

Section 76, act Aug. 19, 1890, ch. 802, § 1, 26 Stat. 322, related to lights of small vessel under way in bad weather, and is now covered by section 1066 of this title.

Section 77, acts Aug. 19, 1890, ch. 802, § 1, 26 Stat. 322, May 28, 1894, ch. 83, 28 Stat. 82, related to substitute lights for small vessel and rowing boats, and is now covered by section 1067 of this title.

Section 78, acts Aug. 19, 1890, ch. 802, § 1, 26 Stat. 323, Feb. 19, 1900, ch. 22, § 1, 31 Stat. 30, related to lights of pilot vessel on and off duty, and steam pilot vessel, and is now covered by section 1068 of this title.

Section 79, acts Aug. 19, 1890, ch. 802, § 1, 26 Stat. 323, May 28, 1894, ch. 83, 28 Stat. 82; Jan. 19, 1907, ch. 300, § 1, 34 Stat. 850, related to lights and day signals of fishing vessels and boats, and is now covered by section 1069 of this title.

Section 80, act Aug. 19, 1890, ch. 802, § 1, 26 Stat. 324, related to lights on overtaken vessel, and is now covered by section 1070 of this title.

Section 81, act Aug. 19, 1890, ch. 802, § 1, 26 Stat. 324, related to lights on vessel at anchor or aground, and is now covered by section 1071 of this title.

Section 82, act Aug. 19, 1890, ch. 802, § 1, 26 Stat. 325, authorized additional lights and signals when necessary, and is now covered by section 1072 of this title.

Section 83, act Aug. 19, 1890, ch. 802, § 1, 26 Stat. 325, related to special lights for ships of war and recognition signals and is now covered by section 1073 of this title.

Section 84, act Aug. 19, 1890, ch. 802, § 1, 26 Stat. 325, related to day signal of steam vessel under sail, and is now covered by section 1074 of this title.

EFFECTIVE DATE OF REPEAL

Repeal of sections 71 to 84 effective Jan. 1, 1954, see Effective Date of Repeal note set out under sections 61 to 63 of this title.

§§ 91, 92. Repealed. Oct. 11, 1951, ch. 495, § 5, 65 Stat. 407

Section 91, acts Aug. 19, 1890, ch. 802, § 1, 26 Stat. 325; June 10, 1896, ch. 401, § 1, 29 Stat. 381, related to sound signals for fog, and is now covered by section 1076 of this title.

Section 92, act Aug. 19, 1890, ch. 802, § 1, 26 Stat. 325, related to speed in fog, and is now covered by section 1077 of this title.

EFFECTIVE DATE OF REPEAL

Repeal of sections 91, 92 effective Jan. 1, 1954, see Effective Date of Repeal note set out under sections 61 to 63 of this title.

§§ 101 to 113. Repealed. Oct. 11, 1951, ch. 495, § 5, 65 Stat. 407

Section 101, act Aug. 19, 1890, ch. 802, § 1, 26 Stat. 326, provided suggestion for ascertainment of risk of collision, and is now covered by section 1078 of this title.

Section 102, act Aug. 19, 1890, ch. 802, § 1, 26 Stat. 326, related to sailing vessels approaching one another, and is now covered by section 1079 of this title.

Section 103, act Aug. 19, 1890, ch. 802, § 1, 26 Stat. 326, related to steam vessels meeting end on, and is now covered by section 1080 of this title.

Section 104, act Aug. 19, 1890, ch. 802, § 1, 26 Stat. 327, related to steam vessels crossing, and is now covered by section 1081 of this title.

Section 105, act Aug. 19, 1890, ch. 802, § 1, 26 Stat. 327, related to steam and sailing vessels meeting, and is now covered by section 1082 of this title.

Section 106, acts Aug. 19, 1890, ch. 802, § 1, 26 Stat. 327; May 28, 1894, ch. 83, 28 Stat. 83, provided that vessel having the right-of-way keep course, and is now covered by section 1083 of this title.

Section 107, act Aug. 19, 1890, ch. 802, § 1, 26 Stat. 327, related to crossing ahead of vessel having right-of-way, and is now covered by section 1084 of this title.

Section 108, act Aug. 19, 1890, ch. 802, § 1, 26 Stat. 327, related to duty of steam vessel to slacken speed, and is now covered by section 1085 of this title.

Section 109, act Aug. 19, 1890, ch. 802, § 1, 26 Stat. 327, provided that overtaking vessel keep out of the way of the overtaken vessel, defined "overtaken vessel", and is covered by section 1086 of this title.

Section 110, act Aug. 19, 1890, ch. 802, § 1, 26 Stat. 327, related to steam vessel in narrow channel, and is now covered by section 1087 of this title.

Section 111, act Aug. 19, 1890, ch. 802, § 1, 26 Stat. 327, related to right of way of fishing vessels or boats, and obstruction of fairways, and is now covered by section 1088 of this title.

Section 112, act Aug. 19, 1890, ch. 802, § 1, 26 Stat. 327, related to special circumstances requiring departure from rules, and is now covered by section 1089 of this title.

Section 113, act Aug. 19, 1890, ch. 802, § 1, 26 Stat. 328, related to sound signals of steam vessel indicating course, and is now covered by section 1090 of this title.

EFFECTIVE DATE OF REPEAL

Repeal of sections 101 to 113 effective Jan. 1, 1954, see Effective Date of Repeal note set out under sections 61 to 63 of this title.

§ 121. Repealed. Oct. 11, 1951, ch. 495, § 5, 65 Stat. 407

Section, act Aug. 19, 1890, ch. 802, § 1, 26 Stat. 328, related to additional precautions, and is now covered by section 1091 of this title.

EFFECTIVE DATE OF REPEAL

Repeal of section effective Jan. 1, 1954, see Effective Date of Repeal note set out under sections 61 to 63 of this title.

§ 131. Repealed. Oct. 11, 1951, ch. 495, § 5, 65 Stat. 407

Section, act Aug. 19, 1890, ch. 802, § 1, 26 Stat. 328, related to local rules for harbors and inland waters, and is now covered by section 1092 of this title.

EFFECTIVE DATE OF REPEAL

Repeal of section effective Jan. 1, 1954, see Effective Date of Repeal note set out under sections 61 to 63 of this title.

§ 141. Repealed. Oct. 11, 1951, ch. 495, § 5, 65 Stat. 407

Section, acts Aug. 19, 1890, ch. 802, § 1, 26 Stat. 328; May 28, 1894, ch. 83, 28 Stat. 83, related to distress signals, and is now covered by section 1093 of this title.

EFFECTIVE DATE OF REPEAL

Repeal of section effective Jan. 1, 1954, see Effective Date of Repeal note set out under sections 61 to 63 of this title.

§ 142. Repealed. Oct. 11, 1951, ch. 495, § 5, 65 Stat. 407

Section, act Aug. 19, 1890, ch. 802, § 1, as added Aug. 21, 1935, ch. 595, § 1, 49 Stat. 668, related to orders to helmsmen.

EFFECTIVE DATE OF REPEAL

Repeal of section effective Jan. 1, 1954, see Effective Date of Repeal note set out under sections 61 to 63 of this title.

§ 143 to 143b. Repealed. Pub. L. 88–131, § 3, Sept. 24, 1963, 77 Stat. 194

Section 143, act Oct. 11, 1951, ch. 495, § 1, 65 Stat. 406, related to adoption of rules for prevention of collisions on the high seas, and to their geographical applicability, and is now covered by section 1051 of this title.

Section 143a, act Oct. 11, 1951, ch. 495, § 2, 65 Stat. 406, provided that Navy and Coast Guard be exempt from the requirements of the rules, and is now covered by section 1052 of this title.

Section 143b, act Oct. 11, 1951, ch. 495, § 6, 65 Stat. 406, related to the identity of the regulations authorized to be proclaimed and is now covered by section 1053 of this title.

EFFECTIVE DATE OF REPEAL

Repeal of sections 143 to 143b effective Sept. 1, 1965, see Proc. No. 3632, Dec. 29, 1964, 29 F.R. 19167, and section 3 of Pub. L. 88–131, both set out as notes under section 1051 of this title.

PROCLAMATION NO. 3030

Proc. No. 3030, Aug. 19, 1953, 18 F.R. 4983, which was the enabling proclamation for adopting Regulations for Preventing Collisions at Sea, 1948, under act Oct. 11, 1951, ch. 495, § 1, 65 Stat. 406, was superseded by Proc. No. 3632, Dec. 29, 1964, 29 F.R. 19167, set out as a note under section 1051 of this title.

EXECUTIVE ORDER NO. 10402

Ex. Ord. No. 10402, Oct. 31, 1952, 17 F.R. 9917, which enforced the Convention for Safety of Life at Sea, 1948, was superseded, to the extent that the International Convention for Safety of Life at Sea signed at London on June 17, 1960, replaced and abrogated the International Convention for Safety of Life at Sea signed at London on June 10, 1948, by Ex. Ord. No. 11239, July 31, 1965, 30 F.R. 9671, set out as a note under section 1051 of this title.

§ 144. Repealed. Pub. L. 88–131, § 3, Sept. 4, 1963, 77 Stat. 194

Section, act Oct. 11, 1951, ch. 495, § 6, Part A, 65 Stat. 408, related to the applicability of sections 144 to 147d of this title, provided that rules concerning lights be complied with from sunset to sunrise, and defined terms used in sections 145 to 147d of this title, and is now covered by section 1051 of this title.

EFFECTIVE DATE OF REPEAL

Repeal of section effective Sept. 1, 1965, see Proc. No. 3632, Dec. 29, 1964, 29 F.R. 19167, and section 3 of Pub. L. 88–131, both set out as notes under section 1051 of this title.

§§ 145 to 145n. Repealed. Pub. L. 88–131, § 3, Sept. 24, 1963, 77 Stat. 194

Section 145, act Oct. 11, 1951, ch. 495, § 6, Pt. B, 65 Stat. 408, related to lights of power-driven vessels under way and of seaplanes under way on the water, and is now covered by section 1062 of this title.

Section 145a, act Oct. 11, 1951, ch. 495, § 6, Pt. B, 65 Stat. 410, related to lights of vessel or seaplane towing or pushing other vessels or seaplanes, and is now covered by section 1063 of this title.

Section 145b, act Oct. 11, 1951, ch. 495, § 6, Pt. B, 65 Stat. 410, related to lights and day signals of vessel not under command and of vessels engaged in specified operations, and is now covered by section 1064 of this title.

Section 145c, act Oct. 11, 1951, ch. 495, § 6, Pt. B, 65 Stat. 411, related to lights of sailing vessel under way and of vessel or seaplane in tow and of vessels being pushed ahead, and is now covered by section 1065 of this title.

Section 145d, act Oct. 11, 1951, ch. 495, § 6, Pt. B, 65 Stat. 411, related to lights of small vessel in bad weather, and is now covered by section 1066 of this title.

Section 145e, act Oct. 11, 1951, ch. 495, § 6, Pt. B, 65 Stat. 411, related to substitute lights for small vessel and rowing boats, and is now covered by section 1067 of this title.

Section 145f, act Oct. 11, 1951, ch. 495, § 6, Pt. B, 65 Stat. 412, related to lights of pilot vessel on and off duty and is now covered by section 1068 of this title.

Section 145g, acts Oct. 11, 1951, ch. 495, § 6, Pt. B, 65 Stat. 413; June 26, 1953, ch. 155, § 1, 67 Stat. 83, related to lights and day signals of fishing vessels, and is now covered by section 1069 of this title.

Section 145h, acts Oct. 11, 1951, ch. 495, § 6, Pt. B, 65 Stat. 414, related to stern and tail lights, and is now covered by section 1070 of this title.

Section 145i, acts Oct. 11, 1951, ch. 495, § 6, Pt. B, 65 Stat. 414, June 26, 1953, ch. 155, § 2, 67 Stat. 83, related to lights on vessels or seaplanes at anchor or aground, and is now covered by section 1071 of this title.

Section 145j, act Oct. 11, 1951, ch. 495, § 6, Pt. B, 65 Stat. 415, related to additional lights and signals when necessary, and is now covered by section 1072 of this title.

Section 145k, act Oct. 11, 1951, ch. 495, § 6, Pt. B, 65 Stat. 415, related to special lights for ships of war, for vessels sailing under convoy and for seaplanes on the water, recognition signals adopted by shipowners, and lights of naval and military vessels and seaplanes of special construction, and is now covered by section 1073 of this title.

Section 145*l*, act Oct. 11, 1951, ch. 495, § 6, Pt. B, 65 Stat. 415, related to day signal of steam vessel under sail, and is now covered by section 1074 of this title.

Section 145m, act Oct. 11, 1951, ch. 495, § 6, Pt. B, 65 Stat. 415, related to sound signals under conditions of restricted visibility, and is now covered by section 1076 of this title.

Section 145n, act Oct. 11, 1951, ch. 495, § 6, Pt. B, 65 Stat. 417, related to speed in weather restricting visibility, and is now covered by section 1077 of this title.

EFFECTIVE DATE OF REPEAL

Repeal of sections effective Sept. 1, 1965, see Proc. No. 3632, Dec. 29, 1964, 29 F.R. 19167, and section 3 of Pub. L. 88-131, both set out as notes under section 1051 of this title.

§§ 146 to 146k. Repealed. Pub. L. 88-131, § 3, Sept. 24, 1963, 77 Stat. 194

Section 146, act Oct. 11, 1951, ch. 495, § 6, Pt. C, 65 Stat. 417, provided methods of obeying and construing sections 146 to 146K, suggestion for ascertainment of risk of collision, and advice concerning the operation of seaplanes, and is now covered by section 1078 of this title.

Section 146a, act Oct. 11, 1951, ch. 495, § 6, Pt. C, 65 Stat. 417, related to sailing vessels approaching one another, and is now covered by section 1079 of this title.

Section 146b, act Oct. 11, 1951, ch. 495, § 6, Pt. C, 65 Stat. 417, related to power-driven vessels meeting end on, and is now covered by section 1080 of this title.

Section 146c, act Oct. 11, 1951, ch. 495, § 6, Pt. C, 65 Stat. 418, related to power-driven vessels crossing, and is now covered by section 1081 of this title.

Section 146d, act Oct. 11, 1951, ch. 495, § 6, Pt. C, 65 Stat. 418, related to vessels or seaplanes meeting, and is now covered by section 1082 of this title.

Section 146e, act Oct. 11, 1951, ch. 495, § 6, Pt. C, 65 Stat. 418, related to the course of vessels having the right of way, and the duty in aiding to avert collision, and is now covered by section 1083 of this title.

Section 146f, act Oct. 11, 1951, ch. 495, § 6, Pt. C, 65 Stat. 418, related to crossing ahead of vessel having right of way, and is now covered by section 1084 of this title.

Section 146g, act Oct. 11, 1951, ch. 495, § 6, Pt. C, 65 Stat. 418, related to duty of power-driven vessel to slacken speed, and is now covered by section 1085 of this title.

Section 146h, act Oct. 11, 1951, ch. 495, § 6, Pt. C, 65 Stat. 418, provided that overtaking vessel keep out of the way of the overtaken vessel, defined "overtaken vessel", and is now covered by section 1086 of this title.

Section 146i, act Oct. 11, 1951, ch. 495, § 6, Pt. C, 65 Stat. 419, related to power-driven vessels in narrow channels and in nearing bends in a channel, and is now covered by section 1087 of this title.

Section 146j, act Oct. 11, 1951, ch. 495, § 6, Pt. C, 65 Stat. 419, related to right of way of fishing vessels, and obstruction of fairways, and is now covered by section 1088 of this title.

Section 146k, act Oct. 11, 1951, ch. 495, § 6, Pt. C, 65 Stat. 419, related to special circumstances requiring departure from rules, and is now covered by section 1089 of this title.

EFFECTIVE DATE OF REPEAL

Repeal of sections effective Sept. 1, 1965, see Proc. No. 3632, Dec. 29, 1964, 29 F.R. 19167, and section 3 of Pub. L. 88-131, both set out as notes under section 1051 of this title.

§§ 147 to 147d. Repealed. Pub. L. 88-131, § 3, Sept. 24, 1963, 77 Stat. 194

Section 147, act Oct. 11, 1951, ch. 495, § 6, Pt. D, 65 Stat. 419, related to sound signals of vessels indicating course, and is now covered by section 1090 of this title.

Section 147a, act Oct. 11, 1951, ch. 495, § 6, Pt. D, 65 Stat. 419, related to additional precautions, and is now covered by section 1091 of this title.

Section 147b, act Oct. 11, 1951, ch. 495, § 6, Pt. D, 65 Stat. 420, related to local rules for harbors and inland waters, and is now covered by section 1092 of this title.

Section 147c, act Oct. 11, 1951, ch. 495, § 6, Pt. D, 65 Stat. 420, related to distress signals, and is now covered by section 1093 of this title.

Section 147d, act Oct. 11, 1951, ch. 495, § 6, Pt. D, 65 Stat. 420, related to orders to helmsmen, and has been omitted.

EFFECTIVE DATE OF REPEAL

Repeal of sections effective Sept. 1, 1963, see Proc. No. 3632, Dec. 29, 1964, 29 F.R. 19167, and section 3 of Pub. L. 88-131, both set out as notes under section 1051 of this title.

CHAPTER 3—NAVIGATION RULES FOR HARBORS, RIVERS, AND INLAND WATERS GENERALLY

SUBCHAPTER I—PRELIMINARY

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155. "Sailing vessel", "steam vessel", and "under way" defined.
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172. Lights of steam vessel under way.
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174. Lights of sailing vessels under way and vessels being towed; exceptions.
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Sec.
178. Lights of fishing vessels.
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181. Additional lights when necessary authorized.
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183. Day signal of steam vessel under sail.

SUBCHAPTER III—SOUND SIGNALS FOR FOG, ETC.; SPEED

191. Sound signals for fog, etc., generally.
192. Speed in fog, etc.

SUBCHAPTER IV—STEERING AND SAILING RULES AND SIGNALS

201. Suggestion for ascertainment of risk of collision.
202. Sailing vessels approaching one another.
203. Steam vessels approaching, meeting, or passing one another; banks obstructing view; leaving dock.
204. Steam vessels crossing.
205. Steam and sailing vessels meeting.
206. Vessel having right of way to keep course.
207. Crossing ahead of vessel having right-of-way.
208. Duty of steam vessel to slacken speed.
209. Overtaking vessel to keep out of the way; definition of "overtaking vessel".
210. Steam vessel in narrow channel.
211. Right of way of fishing vessels or boats; obstruction of fairway.
212. Special circumstances requiring departure from rules.
213. Signal of full speed of engines astern.

SUBCHAPTER V—NO VESSEL UNDER ANY CIRCUMSTANCES TO NEGLECT PROPER PRECAUTIONS

221. Usual additional precautions required generally.
222. Lights on war and Coast Guard vessels; exhibition suspended.

SUBCHAPTER VI—DISTRESS SIGNALS

231. Distress signals in daytime and at night.

SUBCHAPTER VII—ORDERS

232. Orders to helmsmen.

CROSS REFERENCES

Exemption of certain Navy and Coast Guard vessels from navigation rules concerning lights, see sections 360, 360a, and 1052 of this title.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 360 of this title.

SUBCHAPTER I—PRELIMINARY

§ 151. Demarcation of high seas lines

The Commandant of the Coast Guard is authorized, empowered, and directed from time to time to designate and define by suitable bearings or ranges with lighthouses, light vessels, buoys, or coast objects, the lines dividing the high seas from rivers, harbors, and inland waters.

(Feb. 19, 1895, ch. 102, § 2, 28 Stat. 672; Feb. 14, 1903, ch. 552, § 10, 32 Stat. 829; Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736; 1946 Reorg. Plan No. 3, §§ 101-104, eff. July 16, 1946, 11 F.R. 7875, 60 Stat. 1097.)

CODIFICATION

Section was not enacted as part of act June 7, 1897, ch. 4, 30 Stat. 96 which comprises this chapter.

CHANGE OF NAME

The Secretary of Commerce and Labor was designated the Secretary of Commerce by act Mar. 4, 1913, creating the Department of Labor.

TRANSFER OF FUNCTIONS

"Commandant of the Coast Guard" was substituted for "Secretary of Commerce" on authority of Reorg. Plan No. 3 of 1946, §§ 101 to 104, set out in the Appendix to Title 5, Government Organization and Employees.

The duty imposed upon the Secretary of the Treasury by this section was transferred to the Secretary of Commerce and Labor by act Feb. 14, 1903.

The Coast Guard was transferred to the Department of Transportation, and all functions, powers, and duties relating to the Coast Guard of the Secretary of the Treasury and of other officers and offices of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, § 6(b)(1), Oct. 15, 1966, 80 Stat. 938. Section 6(b)(2) of Pub. L 89-670, however, provided that notwithstanding such transfer of functions, the Coast Guard shall operate as part of the Navy in time of war or when the President directs as provided in section 3 of Title 14, Coast Guard. See section 1655 of Title 49, Transportation.

For transfer of functions of other officers, employees, and agencies of the Department of the Treasury, with certain exceptions, to the Secretary of the Treasury with power to delegate, see Reorg. Plan No. 26 of 1950, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, 1281, set out in the Appendix to Title 5, Government Organization and Employees. Functions of the Coast Guard, and the Commandant of the Coast Guard, were excepted from transfer when the Coast Guard is operating as part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

CROSS REFERENCES

Vessel bridge-to-bridge radiotelephone requirement and capability for vessels on navigable waters of United States inside lines established under this section, see section 1203 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 152, 1203 of this title; title 46 sections 88, 224a, 367, 404, 672-1, 672c.

§ 152. Regulation of length of towlines

The Commandant of the Coast Guard shall prepare regulations limiting the length of hawsers between towing vessels and seagoing barges in tow and the length of such tows within any of the inland waters of the United States designated and defined from time to time pursuant to section 151 of this title, and such regulations shall have the force of law.

(May 28, 1908, ch. 212, § 14, 35 Stat. 428; June 17, 1910, ch. 301, §§ 4, 6, 36 Stat. 537, 538; Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736; June 30, 1932, ch. 314, §§ 501, 502, 47 Stat. 415; May 27, 1936, ch. 463, § 1, 49 Stat. 1380; 1939 Reorg. Plan No. II, § 2(a), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1432; 1946 Reorg. Plan No. 3, §§ 101-104, eff. July 16, 1946, 11 F.R. 7875, 60 Stat. 1097; Aug. 4, 1949, ch. 393, §§ 1, 20, 63 Stat. 496, 561.)

CODIFICATION

Section was not enacted as part of act June 7, 1897, ch. 4, 30 Stat. 96 which comprises this chapter.

AMENDMENTS

1949—Act Aug. 4, 1949, § 1, reestablished the Coast Guard.

CHANGE OF NAME

The "Director" of the Bureau of Navigation and Steamboat Inspection was the designation given to the chief of such Bureau by the Secretary of Commerce under section 502(b) of act June 30, 1932.

Bureau of Marine Inspection and Navigation was the designation given to the Bureau of Navigation and Steamboat Inspection by act May 27, 1936.

The Secretary of Commerce and Labor was designated the Secretary of Commerce by act Mar. 4, 1913, creating the Department of Labor.

EFFECTIVE DATE OF 1949 AMENDMENT

Amendment by act Aug. 4, 1949, effective the first day of the third month after the month of approval, August 1949, see section 19 of act Aug. 4, 1949, set out as an Effective Date note preceding chapter 1 of Title 14, Coast Guard.

REPEALS

Act Aug. 4, 1949, § 20, repealed act June 17, 1910, ch. 301, §§ 4, 6, 36 Stat. 537, 538, listed as a credit to section.

TRANSFER OF FUNCTIONS

Section as originally enacted had provided that the Chairman of the Light House Board, the Supervising Inspector General of the Steamboat Inspection Service and the Commissioner of Navigation should convene as a board to prepare the regulations, referred to in the text, which should be approved by the Secretary of Commerce and Labor.

"Commissioner of Lighthouses" was substituted for "Chairman of the Light-House Board" on authority of act June 17, 1910, ch. 301, §§ 4, 6, 36 Stat. 537, 538, which established in the Department of Commerce a Bureau of Lighthouses with a Commissioner of Lighthouses as its head, and transferred the duties of the Lighthouse Board to such Commissioner. Said sections 4 and 6 were repealed by section 20 of act Aug. 4, 1949.

Reorg. Plan No. II, of 1939, set out in the Appendix to Title 5, Government Organization and Employees, transferred the Bureau of Lighthouses to the Coast Guard, and provided that it should be consolidated with and administered as part of the Coast Guard.

The Supervising Inspector General of the former Steamboat Inspection Service and the Commissioner of Navigation of the former Bureau of Navigation were affected by the Secretary's authority to retain or dismiss officers and employees upon consolidation of the bureaus under section 502(b) of act June 30, 1932.

The Steamboat Inspection Service and the Bureau of Navigation were consolidated into the Bureau of Navigation and Steamboat Inspection to be under the direction of a chief of bureau by section 501 of act June 30, 1932.

Functions of the Secretary of Commerce and Director of the Bureau of Marine Inspection and Navigation under this section were transferred to the Commandant of the Coast Guard by Reorg. Plan No. 3, of 1946, §§ 101 to 104, set out in the Appendix to Title 5.

The Coast Guard was transferred to the Department of Transportation, and all functions, powers, and duties relating to the Coast Guard of the Secretary of the Treasury and of other officers and offices of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, § 6(b)(1), Oct. 15, 1966, 80 Stat. 938. Section 6(b)(2) of Pub. L. 89-670, however, provided that notwithstanding such transfer of functions, the Coast Guard shall operate as part of the Navy in time of war or when the President directs as provided in section 3 of Title 14, Coast Guard. See section 1655 of Title 49, Transportation.

For transfer of functions of other officers, employees, and agencies of the Department of the Treasury, with certain exceptions, to the Secretary of the Treasury with power to delegate, see Reorg. Plan No. 26 of 1950, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, 1281, set out in the Appendix to Title 5. Functions of the Coast Guard, and the Commandant of the Coast Guard, were excepted from transfer when the Coast Guard is operating as part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 153 of this title.

§ 153. Penalty for use of unlawful towline

The master of the towing vessel shall be liable to the suspension or revocation of his license for any willful violation of regulations issued pursuant to section 152 of this title in the manner prescribed for incompetency, misconduct, or unskillfulness.

(May 28, 1908, ch. 212, § 15, 35 Stat. 429.)

CODIFICATION

Section was not enacted as part of act June 7, 1897, ch. 4, 30 Stat. 96 which comprises this chapter.

CROSS REFERENCES

Suspension or revocation of master's license, see section 226 of Title 46, Shipping.

§ 154. Adoption of rules for navigation of harbors, rivers, and inland waters

The following regulations for preventing collisions shall be followed by all vessels upon the harbors, rivers, and other inland waters of the United States except the Great Lakes and their connecting and tributary waters as far east as Montreal, and the waters of the Mississippi River between its source and the Huey P. Long Bridge and all of its tributaries emptying thereinto and their tributaries, and that part of the Atchafalaya River above its junction with the Plaquemine-Morgan City alternate waterway, and the Red River of the North, and are declared special rules duly made by local authority.

(June 7, 1897, ch. 4, § 1, 30 Stat. 96; May 21, 1948, ch. 328, § 1, 62 Stat. 249; Aug. 8, 1953, ch. 386, § 1, 67 Stat. 497.)

CODIFICATION

This was the first paragraph of section 1 of act June 7, 1897.

A preamble preceding the enacting clause thereof, was as follows:

"Whereas the provisions of chapter eight hundred and two of the laws of eighteen hundred and ninety, and the amendments thereto, adopting regulations for preventing collisions at sea, apply to all waters of the United States connected with the high seas navigable by sea-going vessels, except so far as the navigation of any harbor, river, or inland waters is regulated by special rules duly made by local authority; and

"Whereas it is desirable that the regulations relating to the navigation of all harbors, rivers, and inland waters of the United States, except the Great Lakes and their connecting and tributary waters as far east as Montreal and the Red River of the North and rivers emptying into the Gulf of Mexico and their tributaries, shall be stated in one Act: Therefore."

Act Aug. 19, 1890, ch. 802, mentioned in this preamble, which adopted the International Rules for preventing collisions at sea, was set forth as section 61 et seq. of this title, was repealed by act Oct. 11, 1951, ch. 495, § 5, 65 Stat. 407, eff. Jan. 1, 1954, and is now covered by section 1051 et seq. of this title.

Further paragraphs of act June 7, 1897, § 1, containing definitions, etc., and articles 1 to 3 and 5 to 31, thereof, containing the rules prescribed, are set forth as sections 155, 156, 171 to 183, 191, 192, 201 to 213, 221, 222, 231, and 232 of this title. No article numbered 4 was contained in said act June 7, 1897.

Sections 2 to 4 of act June 7, 1897, containing further provisions, constitute sections 157 to 159 of this title.

PRIOR PROVISIONS

The rules for preventing collision prescribed by R.S. § 4233 to be followed by vessels of the Navy and mercantile marine of the United States, applicable originally to all waters, were superseded as to navigation on the high seas and waters connected therewith by the International Rules (act Aug. 19, 1890, ch. 802 [sec. 61 et seq. of this title]) were superseded as to navigation on the Great Lakes and their connecting and tributary waters as far east as Montreal, by act Feb. 8, 1895, ch. 64 (section 241 et seq. of this title); were adopted as special rules for the navigation of harbors, rivers, and inland waters of the United States, except the Great Lakes and their connecting and tributary waters as far east as Montreal by act of Feb. 19, 1895, ch. 102 (see section 301 et seq. of this title); and were superseded by act June 7, 1897, ch. 4, as to navigation of all harbors, rivers, and inland waters of the United States except as specified in this paragraph, leaving them applicable solely to the Red River of the North and the rivers emptying into the Gulf of Mexico and their tributaries (see section 301 et seq. of this title).

AMENDMENTS

1953—Act Aug. 8, 1953, made section applicable to the Mobile River and its tributaries.

1948—Act May 21, 1948, limited application of the Western River Rules to the Mississippi River system above the Huey Long Bridge in New Orleans and the Warrior River system in Alabama, and transferred the Mississippi below the Huey Long Bridge and various other rivers in the Gulf area to the jurisdiction of the Inland Rules.

EFFECTIVE DATE OF 1948 AMENDMENT

Section effective Jan. 1, 1949, see section 6 of act May 21, 1948, set out as an Effective Date of 1948 Amendment note under section 301 of this title.

EFFECTIVE DATE

Section 6 of act June 7, 1897, provided, "That this Act [enacting this chapter, amending section 381 of Title 46, Shipping, and enacting provisions set out as notes under this section] shall take effect four months from the date of its approval [June 7, 1897]."

REPEALS

Section 5 of act June 7, 1897, read as follows: "Sections forty-two hundred and thirty-three and forty-four hundred and twelve (with the regulations made in pursuance thereof, except the rules and regulations for the government of pilots of steamers navigating the Red River of the North and rivers emptying into the Gulf of Mexico and their tributaries, and except the rules for the Great Lakes and their connecting and tributary waters as far east as Montreal), and forty-four hundred and thirteen of the Revised Statutes of the United States, and chapter two hundred and two of the laws of eighteen hundred and ninety-three, and sections one and three of chapter one hundred and two of the laws of eighteen hundred and ninety-five, and sections five, twelve, and thirteen of the Act approved March third, eighteen hundred and ninety-seven, entitled "An Act to amend the laws relating to navigation," and all amendments thereto, are hereby repealed so far as the harbors, rivers, and inland waters aforesaid (except the Great Lakes and their connecting and tributary waters as far east as Montreal and the Red River of the North and rivers emptying into the Gulf of Mexico, and their tributaries) are concerned."

The acts partially repealed by section 5 of Act June 7, 1897, were as follows:

R.S. § 4233 (set forth in section 301 et seq. of this title) establishing rules for preventing collisions on the water; R.S. § 4412 (paragraph 1 of section 381 of Title 46, Shipping), authorizing the board of supervising inspectors to establish regulations for steam-vessels; R.S. § 4413 (paragraph 2 of section 381, Title 46), providing a penalty for a violation of such regulations; Act March 3, 1893, ch. 202, amending R.S. § 4233; act Feb. 19, 1895, ch. 102, adopting R.S. § 4233 as the special rules for the navigation of harbors, rivers, and inland waters; and act March 3, 1897, ch. 389, §§ 5, 12, 13, amending R.S. § 4233.

CROSS REFERENCES

Motorboats exempt from carrying copies of pilot rules, see section 526k of Title 46, Shipping.

Navy and Coast Guard vessels exempt from compliance with this section, see section 356 of this title.

Similar rules—

International rules for navigation at sea, see section 1051 of this title.

Navigation rules for Great Lakes and their connection and tributary waters, see section 241 of this title.

Navigation rules for Red River of the North and rivers emptying into Gulf of Mexico and tributaries, see section 301 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 157, 356 of this title.

§ 155. "Sailing vessel", "steam vessel", and "under way" defined

In the following rules every steam vessel which is under sail and not under steam is to be considered a sailing vessel, and every vessel under steam, whether under sail or not, is to be considered a steam vessel.

The word "steam vessel" shall include any vessel propelled by machinery.

A vessel is "under way", within the meaning of these rules, when she is not at anchor, or made fast to the shore, or aground.

(June 7, 1897, ch. 4, § 1, 30 Stat. 96.)

REFERENCES IN TEXT

"The following rules" and "these rules", referred to in text, mean articles 1 to 32 which were promulgated by section 1 of act June 7, 1897, and are classified to sections 171 to 183, 191, 192, 201 to 213, 221, 222, 231, and 232 of this title.

CODIFICATION

Section was enacted as part of section 1 of act June 7, 1897. Said section 1 enacted sections 61, 154 to 156, 171 to 183, 191, 192, 201 to 213, 221, 222, 231, and 232 of this title.

CROSS REFERENCES

Similar rules—

International rules for navigation at sea, see section 1061 of this title.

Navigation rules for Great Lakes and their connecting and tributary waters, see section 242 of this title.

Navigation rules for Red River of the North and rivers emptying into Gulf of Mexico and tributaries, see section 302 of this title.

§ 156. "Visible" as applied to lights defined

The word "visible" in these rules, when applied to lights, shall mean visible on a dark night with a clear atmosphere.

(June 7, 1897, ch. 4, § 1, 30 Stat. 96.)

REFERENCES IN TEXT

These rules, referred to in text, mean articles 1 to 32 which were promulgated by section 1 of act June 7, 1897, and are classified to sections 171 to 183, 191, 192, 201 to 213, 221, 222, 231, and 232 of this title.

CODIFICATION

Section was enacted as part of section 1 of act June 7, 1897. Said section 1 enacted sections 61, 154 to 156, 171 to 183, 191, 192, 201 to 213, 221, 222, 231, and 232 of this title.

CROSS REFERENCES

Rules concerning lights, see section 171 et seq. of this title.

Similar rules—

International rules for navigation at sea, see section 1061 of this title.

Navigation rules for Great Lakes and their connecting and tributary waters, see section 251 of this title.

Navigation rules for Red River of the North and rivers emptying into Gulf of Mexico and tributaries, see section 302 of this title.

§ 157. Special rules authorized; publication; hearings

(a) The Secretary of the Department in which the Coast Guard is operating shall establish such rules to be observed, on the waters described in section 154 of this title, by steam vessels in passing each other and as to the lights and day signals to be carried on such waters by ferryboats, by vessels and craft of all types when in tow of steam vessels or operating by hand power or horsepower or drifting with the current, and by any other vessels not otherwise provided for, not inconsistent with the provisions of this chapter, as he from time to time may deem necessary for safety, which rules are declared special rules duly made by local authority. A pamphlet containing such chapter and regulations shall be furnished to all vessels and craft subject to this chapter. On vessels and craft over sixty-five feet in length the pamphlet shall, where practicable, be kept on board and available for ready reference.

(b) Except in an emergency, before any rules or any alteration, amendment, or repeal thereof, are established by the Secretary under the provisions of this section, the said Secretary shall publish the proposed rules, alterations, amendments, or repeals, and public hearings shall be held with respect thereto on such notice as the Secretary deems reasonable under the circumstances.

(June 7, 1897, ch. 4, § 2, 30 Stat. 102; May 25, 1914, ch. 98, 38 Stat. 381; June 30, 1932, ch. 314, §§ 501, 502(b), 47 Stat. 415; May 27, 1936, ch. 463, § 1, 49 Stat. 1380; 1946 Reorg. Plan No. 3, §§ 101-104, eff. July 16, 1946, 11 F.R. 7875, 60 Stat. 1097; May 21, 1948, ch. 328, § 3, 62 Stat. 249; Aug. 14, 1958, Pub. L. 85-656, § 1, 72 Stat. 612.)

AMENDMENTS

1958—Subsec. (a). Pub. L. 85-656 substituted "Secretary of the Department in which the Coast Guard is operating" for "Commandant of the United States Coast Guard", authorized establishment of rules for day signals, eliminated provisions requiring posting of copies of the rules in a conspicuous place, and inserted provisions requiring, where practicable, every vessel and craft over 65 feet in length to keep a pamphlet on board and available for ready reference.

Subsec. (b). Pub. L. 85-656 substituted "Secretary" for "Commandant of the United States Coast Guard" and "Commandant", and eliminated provisions which required the hearing to be held before the Coast Guard Merchant Marine Council.

1948—Act May 21, 1948, designated existing provisions thereof as subsec. (a), transferred by Congressional enactment the functions of the Secretary of Commerce, the Director of the Bureau of Marine Inspection and Navigation, and the supervising inspectors to the Commandant of the Coast Guard which had been previously transferred to him by 1946 Reorg. Plan No. 3, set out in a note under section 1 of Title 46, Shipping, and added subsec. (b).

1914—Act May 25, 1914, extended rule making authority "as to the lights and day signals to be carried by vessels, dredges of all types, and vessels working on wrecks or other obstruction to navigation or moored for submarine operations, or made fast to a sunken object which may drift with the tide or be towed"; substituted "Secretary of Commerce" for "Secretary of the Treasury"; furnished copies of the rules to "barges, dredges, canal boats, vessels working on wrecks"; and required the posting thereof on "barges, dredges, and boats".

CHANGE OF NAME

"Director of Bureau of Navigation and Steamboat Inspection" (into which Steamboat Inspection Service and Bureau of Navigation were consolidated) was substituted for "Supervising Inspector General" on authority of sections 501 and 502(b) of act June 30, 1932.

Bureau of Marine Inspection and Navigation was the designation given to the Bureau of Navigation and Steamboat Inspection by act May 27, 1936.

EFFECTIVE DATE OF 1948 AMENDMENT

Section effective Jan. 1, 1949, see section 6 of act May 21, 1948, set out as an Effective Date of 1948 Amendment note under section 301 of this title.

TRANSFER OF FUNCTIONS

Functions of the Secretary of Commerce, the Director of the Bureau of Marine Inspection and Navigation and the supervising inspectors of steam vessels were transferred to the Commandant of the Coast Guard by Reorg. Plan No. 3 of 1946, §§ 101 to 104, set out in the Appendix to Title 5, Government Organization and Employees.

The Coast Guard was transferred to the Department of Transportation, and all functions, powers, and duties relating to the Coast Guard of the Secretary of the Treasury and of other officers and offices of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, § 6(b)(1), Oct. 15, 1966, 80 Stat. 938. Section 6(b)(2) of Pub. L. 89-670, however, provided that notwithstanding such transfer of functions, the Coast Guard shall operate as part of the Navy in time of war or when the President directs as provided in section 3 of Title 14, Coast Guard. See section 1655 of Title 49, Transportation.

For transfer of functions of other officers, employees, and agencies of the Department of the Treasury, with certain exceptions, to the Secretary of the Treasury with power to delegate, see Reorg. Plan No. 26 of 1950, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, 1281, set out in the Appendix to Title 5, Government Organization and Employees. Functions of the Coast Guard, and the Commandant of the Coast Guard, were excepted from transfer when the Coast Guard is operating as part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

CROSS REFERENCES

Navy and Coast Guard vessels exempt from compliance with this section, see section 356 of this title.

Similar rules—

Navigation rules for Great Lakes and their connecting and tributary waters, see section 243 of this title.

Navigation rules for Red River of the North and rivers emptying into Gulf of Mexico and tributaries, see section 353 of this title.

Steam vessels approaching, meeting, passing or crossing one another, see sections 203 and 204 of this title.

§ 157a. Regulations for navigation or operation under bridges over navigable waters

(a) Lights, signals, and other navigational means and appliances; departure from rules

The Secretary of the Department in which the Coast Guard is operating may permit vessels desiring to navigate or operate under bridges constructed over navigable waters of the United States to temporarily lower any lights, day signals, or other navigational means and appliances prescribed or required pursuant to law, rule, or regulation, and, if necessary, may authorize vessels so navigating or operating to depart from the rules to prevent collisions as prescribed by law, rule, or regulation. The Secretary of the Department in which the Coast Guard is operating may also prescribe such special regulations to be observed by vessels so navigating or operating as in his judgment the public safety may require for the prevention of collisions.

(b) Publication of notice of regulations

Notice of the regulations to accomplish the purposes of this section shall be published in the Federal Register and in the Notice to Mariners, and after the effective date specified in such notices, such regulations shall have the force of law.

(c) Penalties

Any person who navigates or operates a vessel in violation of the regulations established pursuant to this section shall be liable to a penalty not exceeding $500. In addition, any vessel navigated or operated in violation of the regulations established pursuant to this section shall be liable to a penalty of $500, for which sum such vessel may be seized and proceeded against, by way of libel, in the district court of the United States for any district within which such vessel may be found.

(Pub. L. 88-163, Oct. 30, 1963, 77 Stat. 281.)

CODIFICATION

Section was not enacted as part of act June 7, 1897, ch. 4, 30 Stat. 96, which comprises this chapter.

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation, and all functions, powers, and duties relating to the Coast Guard of the Secretary of the Treasury and of other officers and offices of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, § 6(b)(1), Oct. 15, 1966, 80 Stat. 938. Section 6(b)(2) of Pub. L. 89-670, however, provided that notwithstanding such transfer of functions, the Coast Guard shall operate as part of the Navy in time of war or when the President directs as provided in section 3 of Title 14, Coast Guard. See section 1655 of Title 49, Transportation.

§ 158. Penalty for violations by pilot, engineer, mate, or master

Every licensed and unlicensed pilot, engineer, mate, or master of any vessel who violates the provisions of this chapter or the regulations established pursuant hereto shall be liable to a penalty of not exceeding $500, and for all damages sustained by any passenger, in his person or baggage, as a result of such violation: *Provided,* That nothing herein shall relieve any vessel, owner, or corporation from any liability incurred by reason of such violation.

(June 7, 1897, ch. 4, § 3, 30 Stat. 102; May 21, 1948, ch. 328, § 3, 62 Stat. 249; Aug. 14, 1958, Pub. L. 85-656, § 1, 72 Stat. 612.)

AMENDMENTS

1958—Pub. L. 85-656 included violations by both licensed and unlicensed pilots, engineers, mates, or masters, increased the penalty from $100 to not more than $500, and substituted "any vessel who violates the provisions of this chapter" for "any steam vessel, as defined in section 302 of this title, and every master or mate of any barge or canal boat, who neglects or refuses to observe the provisions of this chapter".

1948—Act May 21, 1948, increased the penalty from $50 to $100.

EFFECTIVE DATE OF 1948 AMENDMENT

Section effective Jan. 1, 1949, see section 6 of act May 21, 1948, set out as an Effective Date of 1948 Amendment note under section 301 of this title.

CROSS REFERENCES

Navy and Coast Guard vessels exempt from compliance with this section, see section 356 of this title.

Similar rule, navigation rules for Red River of the North and rivers emptying into Gulf of Mexico and tributaries, see section 354 of this title.

§ 159. Penalty for violations by vessel

Every vessel which is navigated in violation of any of the provisions of this chapter or the regulations established pursuant hereto shall be liable to a penalty of $500, one-half to go to the informer, for which sum such vessel may be seized and proceeded against by action in any district court of the United States having jurisdiction of the offense.

(June 7, 1897, ch. 4, § 4, 30 Stat. 103; May 21, 1948, ch. 328, § 3, 62 Stat. 249; Aug. 14, 1958, Pub. L. 85-656, § 1, 72 Stat. 612.)

AMENDMENTS

1958—Pub. L. 85-656 increased the penalty from $200 to $500, and authorized the penalty for violation of the regulations established pursuant to this chapter.

1948—Act May 21, 1948, reenacted section without change.

EFFECTIVE DATE OF 1948 AMENDMENT

Section effective Jan. 1, 1949, see section 6 of act May 21, 1948, set out as an Effective Date of 1948 Amendment note under section 301 of this title.

CROSS REFERENCES

Navy and Coast Guard vessels exempt from compliance with this section, see section 356 of this title.

Similar provisions—
Navigation rules for Great Lakes and their connecting and tributary waters, see section 244 of this title.
Navigation rules for Red River of the North and rivers emptying into Gulf of Mexico and tributaries, see sections 303 and 355 of this title.

SUBCHAPTER II—RULES CONCERNING LIGHTS, ETC.

§ 171. Time for lights; prescribed lights exclusive (article 1)

The rules concerning lights shall be complied with in all weathers from sunset to sunrise, and during such time no other lights which may be mistaken for the prescribed lights shall be exhibited.

(June 7, 1897, ch. 4, § 1, 30 Stat. 96.)

CODIFICATION

Section was enacted as part of section 1 of act June 7, 1897. Said section 1 enacted sections 61, 154 to 156, 171 to 183, 191, 192, 201 to 213, 221, 222, 231, and 232 of this title.

CROSS REFERENCES

Similar rules—
International rules for navigation at sea, see section 1061 of this title.
Navigation rules for Great Lakes and their connecting and tributary waters, see section 251 of this title.
Navigation rules for Red River of the North and rivers emptying into Gulf of Mexico and tributaries, see section 311 of this title.

§ 172. Lights of steam vessel under way (article 2)

A steam vessel when under way shall carry—

(a) On or in front of the foremast, or, if a vessel without a foremast, then in the fore part of the vessel, a bright white light so constructed as to show an unbroken light over an arc of the horizon of twenty points of the compass, so fixed as to throw the light ten points on each side of the vessel, namely, from right ahead to two points abaft the beam on either side, and of such a character as to be visible at a distance of at least five miles.

(b) On the starboard side a green light so constructed as to show an unbroken light over an arc of the horizon of ten points of the compass so fixed as to throw the light from right ahead to two points abaft the beam on the starboard side, and of such a character as to be visible at a distance of at least two miles.

(c) On the port side a red light so constructed as to show an unbroken light over an arc of the horizon of ten points of the compass, so fixed as to throw the light from right ahead to two points abaft the beam on the port side, and of such a character as to be visible at a distance of at least two miles.

(d) The said green and red side lights shall be fitted with inboard screens projecting at least three feet forward from the light, so as to prevent these lights from being seen across the bow.

(e) A seagoing steam vessel when under way may carry an additional white light similar in construction to the light mentioned in subdivision (a) of this section.

These two lights shall be so placed in line with the keel that one shall be at least fifteen feet higher than the other, and in such a position with reference to each other that the lower light shall be forward of the upper one. The vertical distance between these lights shall be less than the horizontal distance.

(f) All steam vessels (except seagoing vessels and ferryboats) shall carry, in addition to green and red lights required by subdivisions (b) and (c) of this section, and screens as required by subdivision (d) of this section, a central range of two white lights, the afterlight being carried at an elevation at least fifteen feet above the light at the head of the vessel. The headlight shall be so constructed as to show an unbroken light through twenty points of the compass, namely, from right ahead to two points abaft the beam on either side of the vessel, and the afterlight so as to show all around the horizon.

(June 7, 1897, ch. 4, § 1, 30 Stat. 96.)

CODIFICATION

Section was enacted as part of section 1 of act June 7, 1897. Said section 1 enacted sections 61, 154 to 156, 171 to 183, 191, 192, 201 to 213, 221, 222, 231, and 232 of this title.

CROSS REFERENCES

Similar rules—
International rules for navigation at sea, see section 1062 of this title.
Navigation rules for Great Lakes and their connecting and tributary waters, see section 252 of this title.
Navigation rules for Red River of the North and rivers emptying into Gulf of Mexico and tributaries, see sections 314 to 316 of this title.
Steam pilot vessel, colored side light requirements applicable, see section 177 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 173, 174 of this title.

§ 173. Lights of vessel towing or pushing another vessel or vessels (article 3)

(a) A steam vessel when towing another vessel or vessels alongside or by pushing ahead shall, in addition to her side lights, carry two bright white lights in a vertical line, one over the other, not less than three feet apart, and when towing one or more vessels astern, regardless of the length of the tow, shall carry an additional bright white light three feet above or below such lights. Each of these lights shall be of the same construction and character, and shall be carried in the same position as the white light mentioned in section 172(a) of this title or the after range light mentioned in section 172(f) of this title.

(b) A steam vessel carrying towing lights the same as the white light mentioned in section 172(a) of this title, when pushing another vessel or vessels ahead, shall also carry at or near the stern two bright amber lights in a vertical line, one over the other, not less than three feet apart; each of these lights shall be so constructed as to show an unbroken light over an arc of the horizon of twelve points of the compass, so fixed as to show the light six points from right aft on each side of the vessel, and of such a character as to be visible at a distance of at least two miles. A steam vessel carrying towing lights the same as the white light mentioned in section 172(a) of this title may also carry, irrespective of the position of the tow,

the after range light mentioned in section 172(f) of this title; however, if the after range light is carried by such a vessel when pushing another vessel or vessels ahead, the amber lights shall be carried in a vertical line with and at least three feet lower than the after range light. A steam vessel carrying towing lights the same as the white light mentioned in section 172(a) of this title, when towing one or more vessels astern, may also carry, in lieu of the stern light specified in section 179 of this title, a small white light abaft the funnel or aftermast for the tow to steer by, but such light shall not be visible forward of the beam.

(June 7, 1897, ch. 4, § 1, 30 Stat. 97; May 20, 1936, ch. 433, 49 Stat. 1367; May 21, 1948, ch. 328, § 2, 62 Stat. 249; Aug. 14, 1958, Pub. L. 85-635, § 1, 72 Stat. 590.)

CODIFICATION

Section was enacted as part of section 1 of act June 7, 1897. Said section 1 enacted sections 61, 154 to 156, 171 to 183, 191, 192, 201 to 213, 221, 222, 231, and 232 of this title.

AMENDMENTS

1958—Subsec. (a). Pub. L. 85-635 designated former first paragraph subsec. (a), and eliminated second paragraph that authorized steam vessels to carry a small white light abaft the funnel or aftermast for the vessel towed to steer by.

Subsec. (b). Pub. L. 85-635 added subsec. (b).

1948—Act May 21, 1948, provided rules for lights on pusher towboats.

1936—Act May 20, 1936, added proviso that this article not affect the signal lights used on towing vessels which propelled the tow by pushing it from the rear on the Red River of the North and rivers emptying into the Gulf of Mexico and tributaries.

EFFECTIVE DATE OF 1948 AMENDMENT

Section effective Jan. 1, 1949, see section 6 of act May 21, 1948, set out as an Effective Date of 1948 Amendment note under section 301 of this title.

CROSS REFERENCES

Navy and Coast Guard vessels exempt from compliance with this section, see section 356 of this title.

Similar rules—

International rules for navigation at sea, see section 1063 of this title.

Navigation rules for Great Lakes and their connecting and tributary waters, see sections 253, 254 of this title.

Navigation rules for Red River of the North and rivers emptying into Gulf of Mexico and tributaries, see section 313 of this title.

§ 174. Lights of sailing vessels under way and vessels being towed; exceptions (article 5)

A sailing vessel under way and any vessel being towed, except barges, canal boats, scows, and other vessels of nondescript type, when in tow of steam vessels, shall carry the same lights as are prescribed by section 172 of this title for a steam vessel under way, with the exception of the white lights mentioned therein, which they shall never carry.

(June 7, 1897, ch. 4, § 1, 30 Stat. 97; Mar. 1, 1933, ch. 157, 47 Stat. 1417.)

CODIFICATION

No article numbered 4 was contained in act June 7, 1897.

Section was enacted as part of section 1 of act June 7, 1897. Said section 1 enacted sections 61, 154 to 156, 171 to 183, 191, 192, 201 to 213, 221, 222, 231, and 232 of this title.

CROSS REFERENCES

Similar rules—

International rules for navigation at sea, see section 1065 of this title.

Navigation rules for Great Lakes and their connecting and tributary waters, see section 255 of this title.

Navigation rules for Red River of the North and rivers emptying into Gulf of Mexico and tributaries, see sections 316 and 317 of this title.

§ 175. Lights of small vessel under way in bad weather (article 6)

Whenever, as in the case of vessels of less than ten gross tons under way during bad weather, the green and red side lights cannot be fixed, these lights shall be kept at hand, lighted and ready for use, and shall, on the approach of or to other vessels, be exhibited on their respective sides in sufficient time to prevent collision, in such manner as to make them most visible and so that the green light shall not be seen on the port side nor the red light on the starboard side, nor, if practicable, more than two points abaft the beam on their respective sides. To make the use of these portable lights more certain and easy, the lanterns containing them shall each be painted outside with the color of the light they respectively contain and shall be provided with proper screens.

(June 7, 1897, ch. 4, § 1, 30 Stat. 97.)

CODIFICATION

Section was enacted as part of section 1 of act June 7, 1897. Said section 1 enacted sections 61, 154 to 156, 171 to 183, 191, 192, 201 to 213, 221, 222, 231, and 232 of this title.

CROSS REFERENCES

Similar rules—

International rules for navigation at sea, see section 1066 of this title.

Navigation rules for Great Lakes and their connecting and tributary waters, see section 257 of this title.

Navigation rules for Red River of the North and rivers emptying into Gulf of Mexico and tributaries, see section 318 of this title.

§ 176. Lights of rowboats (article 7)

Rowing boats, whether under oars or sail, shall have ready at hand a lantern showing a white light which shall be temporarily exhibited in sufficient time to prevent collision.

(June 7, 1897, ch. 4, § 1, 30 Stat. 98.)

CODIFICATION

Section was enacted as part of section 1 of act June 7, 1897. Said section 1 enacted sections 61, 154 to 156, 171 to 183, 191, 192, 201 to 213, 221, 222, 231, and 232 of this title.

CROSS REFERENCES

Similar rule, international rules for navigation at sea, see section 1067 of this title.

§ 177. Lights of pilot vessel on and off duty; steam pilot vessel (article 8)

Pilot vessels when engaged on their station on pilotage duty shall not show the lights required for other vessels but shall carry a white

light at the masthead, visible all around the horizon, and shall also exhibit a flare-up light or flare-up lights at short intervals, which shall never exceed fifteen minutes.

On the near approach of or to other vessels they shall have their side lights lighted, ready for use, and shall flash or show them at short intervals, to indicate the direction in which they are heading, but the green light shall not be shown on the port side nor the red light on the starboard side.

A pilot vessel of such a class as to be obliged to go alongside of a vessel to put a pilot on board may show the white light instead of carrying it at the masthead, and may, instead of the colored lights above mentioned, have at hand, ready for use, a lantern with a green glass on the one side and a red glass on the other, to be used as prescribed above.

Pilot vessels, when not engaged on their station on pilotage duty, shall carry lights similar to those of other vessels of their tonnage.

A steam pilot vessel, when engaged on her station on pilotage duty and in waters of the United States, and not at anchor, shall, in addition to the lights required for all pilot boats, carry at a distance of eight feet below her white masthead light a red light, visible all around the horizon and of such a character as to be visible on a dark night with a clear atmosphere at a distance of at least two miles, and also the colored side lights required to be carried by vessels when under way.

When engaged on her station on pilotage duty and in waters of the United States, and at anchor, she shall carry in addition to the lights required for all pilot boats the red light above mentioned, but not the colored side lights.

When not engaged on her station on pilotage duty, she shall carry the same lights as other steam vessels.

(June 7, 1897, ch. 4, § 1, 30 Stat. 98; Feb. 19, 1900, ch. 22, § 1, 31 Stat. 30.)

CODIFICATION

Art. 8, which is from act June 7, 1897, comprises first 4 pars. of this section.

Last 3 pars. of this section, providing for additional lights for steam pilot vessels, are from act Feb. 19, 1900.

Section 2 of act Feb. 19, 1900, provided that section 1 thereof should be supplementary to both article 8 of act June 7, 1897, first 4 pars. of this section and article 8 of act Aug. 19, 1890, ch. 802, § 1 (first 4 pars. of section 1068 of this title).

First 4 paragraphs of this section were enacted as part of section 1 of act June 7, 1897. Said section 1 enacted sections 61, 154 to 156, 171 to 183, 191, 192, 201 to 213, 221, 222, 231, and 232 of this title.

CROSS REFERENCES

Lights of steam vessel under way, see section 172 of this title.

Lights of vessel at anchor, see section 180 of this title.

Similar rules—

International rules for navigation at sea, see section 1068 of this title.

Navigation rules for Red River of the North and rivers emptying into Gulf of Mexico and tributaries, see section 320 of this title.

§ 178. Lights of fishing vessels (article 9)

(a) Vessels of less than ten gross tons

Fishing vessels of less than ten gross tons, when under way and when not having their nets, trawls, dredges, or lines in the water, shall not be required to carry the colored side lights; but every such vessel shall, in lieu thereof, have ready at hand a lantern with a green glass on one side and a red glass on the other side, and on approaching to or being approached by another vessel such lantern shall be exhibited in sufficient time to prevent collision, so that the green light shall not be seen on the port side nor the red light on the starboard side.

(b) Vessels of more than ten gross tons

All fishing vessels and fishing boats of ten gross tons or upward, when under way and when not having their nets, trawls, dredges, or lines in the water, shall carry and show the same lights as other vessels under way.

(c) Vessels trawling, dredging, or fishing

All vessels, when trawling, dredging, or fishing with any kind of dragnets or lines, shall exhibit, from some part of the vessel where they can be best seen, two lights. One of these lights shall be red and the other shall be white. The red light shall be above the white light, and shall be at a vertical distance from it of not less than six feet and not more than twelve feet; and the horizontal distance between them, if any, shall not be more than ten feet. These two lights shall be of such a character and contained in lanterns of such construction as to be visible all round the horizon, the white light a distance of not less than three miles and the red light of not less than two miles.

(d) Rafts and unspecified crafts

Rafts, or other water craft not herein provided for, navigating by hand power, horse power, or by the current of the river, shall carry one or more good white lights, which shall be placed in such manner as shall be prescribed by the Commandant of the Coast Guard.

(June 7, 1897, ch. 4, § 1, 30 Stat. 98; 1946 Reorg. Plan No. 3, §§ 101–104, eff. July 16, 1946, 11 F.R. 7875, 60 Stat. 1097.)

CODIFICATION

Section was enacted as part of section 1 of act June 7, 1897. Said section 1 enacted sections 61, 154 to 156, 171 to 183, 191, 192, 201 to 213, 221, 222, 231, and 232 of this title.

TRANSFER OF FUNCTIONS

Functions of the Board of Supervising Inspectors of Steam Vessels under this section were transferred to the Commandant of the Coast Guard by Reorg. Plan No. 3 of 1946, §§ 101 to 104, set out in the Appendix to Title 5, Government Organization and Employees.

The Coast Guard was transferred to the Department of Transportation, and all functions, powers, and duties relating to the Coast Guard of the Secretary of the Treasury and of other officers and offices of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, § 6(b)(1), Oct. 15, 1966, 80 Stat. 938. Section 6(b)(2) of Pub. L. 89-670, however, provided that notwithstanding such transfer of functions, the Coast Guard shall operate as part of the Navy in time of war or when the President directs as provided in section 3 of Title 14,

Coast Guard. See section 1655 of Title 49, Transportation.

For transfer of functions of other officers, employees, and agencies of the Department of the Treasury, with certain exceptions, to the Secretary of the Treasury with power to delegate, see Reorg. Plan No. 26 of 1950, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, 1281, set out in the Appendix to Title 5, Government Organization and Employees. Functions of the Coast Guard, and the Commandant of the Coast Guard, were excepted from transfer when the Coast Guard is operating as part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

CROSS REFERENCES

Similar rules—
International rules for navigation at sea, see section 1069 of this title.
Navigation rules for Great Lakes and their connecting and tributary waters, see sections 256 and 259 of this title.

§ 179. Lights of overtaken vessel (article 10)

(a) A vessel when underway, if not otherwise required by these rules to carry one or more lights visible from aft, shall carry at her stern a white light, so constructed that it shall show an unbroken light over an arc of the horizon of twelve points of the compass, so fixed as to show the light six points from right aft on each side of the vessel, and of such a character as to be visible at a distance of at least two miles. Such light shall be carried as nearly as practicable on the same level as the side lights.

(b) In a small vessel, if it is not possible on account of bad weather or other sufficient cause for this light to be fixed, an electric torch or a lighted lantern shall be kept at hand ready for use and shall, on the approach of an overtaking vessel, be shown in sufficient time to prevent collision.

(June 7, 1897, ch. 4, § 1, 30 Stat. 98; Aug. 14, 1958, Pub. L. 85-635, § 2, 72 Stat. 590.)

REFERENCES IN TEXT

These rules, referred to in subsec. (a), mean articles 1 to 32 which were promulgated by section 1 of act June 7, 1897, and are classified to sections 171 to 183, 191, 192, 201 to 213, 221, 222, 231, and 232 of this title.

CODIFICATION

Section was enacted as part of section 1 of act June 7, 1897. Said section 1 enacted sections 61, 154 to 156, 171 to 183, 191, 192, 201 to 213, 221, 222, 231, and 232 of this title.

AMENDMENTS

1958—Pub. L. 85-635 substituted provisions requiring all vessels under way, if not otherwise required to carry one or more lights visible from aft, to carry at their stern a fixed white light, for provisions which required vessels being overtaken by another to show from their stern a white light or a flare-up light, and inserted provisions permitting small vessels, in those circumstances where they cannot have a fixed light, to use an electric torch or lighted lantern.

CROSS REFERENCES

Similar rules—
International rules for navigation at sea, see section 1070 of this title.
Navigation rules for Great Lakes and their connecting and tributary waters, see section 261 of this title.
Navigation rules for Red River of the North and rivers emptying into Gulf of Mexico and tributaries, see section 319 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 173 of this title.

§ 180. Lights of vessel at anchor (article 11)

(a) Vessels under one hundred and fifty feet in length

Except as provided in subsection (c) of this section, a vessel under one hundred and fifty feet in length when at anchor shall carry forward, where it can best be seen, a white light in a lantern so constructed as to show a clear, uniform, and unbroken light visible all around the horizon at a distance of at least two miles.

(b) Vessels more than one hundred and fifty feet in length

Except as provided in subsection (c) of this section, a vessel of one hundred and fifty feet or upward in length, when at anchor, shall carry in the forward part of the vessel, at a height of not less than twenty feet above the hull, one such light, and at or near the stern of the vessel, and at such a height that it shall be not less than fifteen feet lower than the forward light, another such light.

(c) Special anchorage areas

The Secretary of Transportation may, after investigation, by rule, regulation, or order, designate such areas as he may deem proper as "special anchorage areas"; such special anchorage areas may from time to time be changed, or abolished, if after investigation the Secretary of Transportation shall deem such change or abolition in the interest of navigation. When anchored within such an area—

(1) a vessel of not more than sixty-five feet in length shall not be required to carry or exhibit the white light required by this section;

(2) a barge, canal boat, scow, or other nondescript craft of one hundred and fifty feet or upward in length may carry and exhibit the single white light prescribed by subsection (a) of this section in lieu of the two white lights prescribed by subsection (b) of this section; and

(3) where two or more barges, canal boats, scows, or other nondescript craft are tied together and anchored as a unit, the anchor light prescribed by this section need be displayed only on the vessel having its anchor down.

(June 7, 1897, ch. 4, § 1, 30 Stat. 98; Apr. 22, 1940, ch. 128, § 1, 54 Stat. 150; Aug. 5, 1963, Pub. L. 88-84, § 1, 77 Stat. 116; Oct. 15, 1966, Pub. L. 89-670, § 6, 80 Stat. 937.)

CODIFICATION

Section was enacted as part of section 1 of act June 7, 1897. Said section 1 enacted sections 61, 154 to 156, 171 to 183, 191, 192, 201 to 213, 221, 222, 231, and 232 of this title.

AMENDMENTS

1963—Subsec. (a). Pub. L. 88-84 designated existing provisions of first sentence of first par. as subsec. (a), added the introductory phrase, eliminated location requirement of the light set at height not exceeding twenty feet above the hull and increased the visibility requirement of the light from one to two miles.

Subsec. (b). Pub. L. 88-84 designated existing provisions of second par. as subsec. (b), added the introductory phrase and eliminated location requirement of the forward light set at height not exceeding forty feet above the hull.

Subsec. (c). Pub. L. 88-84 designated existing provisions of first and second provisos of first par. as the introductory par. and clause (1), respectively, and added clauses (2) and (3).

Pub. L. 88-84 eliminated the third par. deeming the length of a vessel to be the length appearing in her certificate of registry.

1940—Act Apr. 22, 1940, inserted the provisos in first par.

TRANSFER OF FUNCTIONS

Secretary of Transportation was substituted for Secretary of the Army pursuant to section 6 of Pub. L. 89-670, which created the Department of Transportation and transferred all functions, powers, and duties of the Secretary of the Army and other offices or officers of the Department of the Army relating generally to water vessel anchorages under this section to the Secretary of Transportation. See section 1655 of Title 49, Transportation.

For transfer of certain functions insofar as they pertain to the Air Force, and to the extent that they were not previously transferred to the Secretary of the Air Force and Department of the Air Force from the Secretary of the Army and Department of the Army, see Secretary of Defense Transfer Order No. 40 [App. A(56)], July 22, 1949.

CROSS REFERENCES

Establishment, regulation, and marking of anchorage grounds, see sections 471 and 472 of this title.

Registry and recording, see section 11 et seq. of Title 46, Shipping.

Similar rules—

International rules for navigation at sea, see section 1071 of this title.

Navigation rules for Great Lakes and their connecting and tributary waters, see section 258 of this title.

Navigation rules for Red River of the North and rivers emptying into Gulf of Mexico and tributaries, see section 322 of this title.

Steam pilot vessel at anchor, see section 177 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 191 of this title; title 49 section 1655.

§ 181. Additional lights when necessary authorized (article 12)

Every vessel may, if necessary, in order to attract attention, in addition to the lights which she is by these rules required to carry, show a flare-up light or use any detonating signal that cannot be mistaken for a distress signal.

(June 7, 1897, ch. 4, § 1, 30 Stat. 99.)

REFERENCES IN TEXT

These rules, referred to in text, mean articles 1 to 32 which were promulgated by section 1 of act June 7, 1897, and are classified to sections 171 to 183, 191, 192, 201 to 213, 221, 222, 231, and 232 of this title.

CODIFICATION

Section was enacted as part of section 1 of act June 7, 1897. Said section 1 enacted sections 61, 154 to 156, 171 to 183, 191, 192, 201 to 213, 221, 222, 231, and 232 of this title.

CROSS REFERENCES

Distress signals in daytime and at night, see section 231 of this title.

Similar rules—

International rules for navigation at sea, see section 1072 of this title.

Navigation rules for Great Lakes and their connecting and tributary waters, see section 261 of this title.

§ 182. Special lights for ship of war and convoy; recognition signals adopted by shipowners (article 13)

Nothing in these rules shall interfere with the operation of any special rules made by the government of any nation with respect to additional station and signal lights for two or more ships of war or for vessels sailing under convoy, or with the exhibition of recognition signals adopted by shipowners, which have been authorized by their respective governments and duly registered and published.

(June 7, 1897, ch. 4, § 1, 30 Stat. 99.)

REFERENCES IN TEXT

These rules, referred to in text, mean articles 1 to 32 which were promulgated by section 1 of act June 7, 1897, and are classified to sections 171 to 183, 191, 192, 201 to 213, 221, 222, 231, and 232 of this title.

CODIFICATION

Section was enacted as part of section 1 of act June 7, 1897. Said section 1 enacted sections 61, 154 to 156, 171 to 183, 191, 192, 201 to 213, 221, 222, 231, and 232 of this title.

CROSS REFERENCES

Similar rule, international rules for navigation at sea, see section 1073 of this title.

§ 183. Day signal of steam vessel under sail (article 14)

A steam vessel proceeding under sail only, but having her funnel up, may carry in daytime, forward, where it can best be seen, one black ball or shape two feet in diameter.

(June 7, 1897, ch. 4, § 1, 30 Stat. 99.)

CODIFICATION

Section was enacted as part of section 1 of act June 7, 1897. Said section 1 enacted sections 61, 154 to 156, 171 to 183, 191, 192, 201 to 213, 221, 222, 231, and 232 of this title.

SUBCHAPTER III—SOUND SIGNALS FOR FOG, ETC.; SPEED

§ 191. Sound signals for fog, etc., generally (article 15)

All signals prescribed by this section for vessels under way shall be given—

1. By "steam vessels" on the whistle or siren.

2. By "sailing vessels" and "vessels towed" on the foghorn.

The words "prolonged blast" used in this section shall mean a blast of from four to six seconds duration.

A steam vessel shall be provided with an efficient whistle or siren, sounded by steam or by some substitute for steam, so placed that the sound may not be intercepted by any obstruction, and with an efficient foghorn; also with an efficient bell.

A sailing vessel of twenty tons gross tonnage or upward shall be provided with a similar foghorn and bell.

In fog, mist, falling snow, or heavy rainstorms, whether by day or night, the signals described in this article shall be used as follows, namely:

(a) A steam vessel under way shall sound, at intervals of not more than one minute, a prolonged blast.

(c) [1] A sailing vessel under way shall sound, at intervals of not more than one minute, when on the starboard tack, one blast; when on the port tack, two blasts in succession; and when with the wind abaft the beam, three blasts in succession.

(d) A vessel when at anchor shall, at intervals of not more than one minute, ring the bell rapidly for about five seconds, except that the following vessels shall not be required to sound this signal when anchored in a special anchorage area established pursuant to section 180(c) of this title:

(1) a vessel of not more than sixty-five feet in length; and

(2) a barge, canal boat, scow, or other nondescript craft.

(e) A steam vessel when towing, shall, instead of the signals prescribed in subdivision (a) of this section, at intervals of not more than one minute, sound three blasts in succession, namely, one prolonged blast followed by two short blasts. A vessel towed may give this signal and she shall not give any other.

(f) All rafts or other water craft, not herein provided for, navigating by hand power, horse power, or by the current of the river, shall sound a blast of the foghorn, or equivalent signal, at intervals of not more than one minute.

(June 7, 1897, ch. 4, § 1, 30 Stat. 99; Aug. 5, 1963, Pub. L. 88-84, § 2, 77 Stat. 116.)

CODIFICATION

Section was enacted as part of section 1 of act June 7, 1897. Said section 1 enacted sections 61, 154 to 156, 171 to 183, 191, 192, 201 to 213, 221, 222, 231, and 232 of this title.

AMENDMENTS

1963—Pub. L. 88-84 added the exception provision in item (d).

CROSS REFERENCES

Similar rules—
International rules for navigation at sea, see section 1076 of this title.
Navigation rules for Great Lakes and their connecting and tributary waters, see section 271 of this title.
Navigation rules for Red River of the North and rivers emptying into Gulf of Mexico and tributaries, see section 331 of this title.

Weather conditions restricting visibility as necessitating use of fog signals only, see section 203 (Rule IX) of this title.

§ 192. Speed in fog, etc. (article 16)

Every vessel shall, in a fog, mist, falling snow, or heavy rainstorms, go at a moderate speed, having careful regard to the existing circumstances and conditions.

A steam vessel hearing, apparently forward of her beam, the fog signal of a vessel the position of which is not ascertained shall, so far as the circumstances of the case admit, stop her engines, and then navigate with caution until danger of collision is over.

(June 7, 1897, ch. 4, § 1, 30 Stat. 99.)

CODIFICATION

Section was enacted as part of section 1 of act June 7, 1897. Said section 1 enacted sections 61, 154 to 156, 171 to 183, 191, 192, 201 to 213, 221, 222, 231, and 232 of this title.

CROSS REFERENCES

Similar rules—
International rules for navigation at sea, see section 1077 of this title.
Navigation rules for Great Lakes and their connecting and tributary waters, see section 272 of this title.
Navigation rules for Red River of the North and rivers emptying into Gulf of Mexico and tributaries, see section 341 of this title.

SUBCHAPTER IV—STEERING AND SAILING RULES AND SIGNALS

§ 201. Suggestion for ascertainment of risk of collision

Risk of collision can, when circumstances permit, be ascertained by carefully watching the compass bearing of an approaching vessel. If the bearing does not appreciably change, such risk should be deemed to exist.

(June 7, 1897, ch. 4, § 1, 30 Stat. 100.)

CODIFICATION

Section was enacted as part of section 1 of act June 7, 1897. Said section 1 enacted sections 61, 154 to 156, 171 to 183, 191, 192, 201 to 213, 221, 222, 231, and 232 of this title.

CROSS REFERENCES

Similar rules—
International rules for navigation at sea, see section 1078 of this title.
Navigation rules for Red River of the North and rivers emptying into Gulf of Mexico and tributaries, see section 341a of this title.

§ 202. Sailing vessels approaching one another (article 17)

When two sailing vessels are approaching one another, so as to involve risk of collision, one of them shall keep out of the way of the other as follows, namely:

(a) A vessel which is running free shall keep out of the way of a vessel which is close-hauled.

(b) A vessel which is close-hauled on the port tack shall keep out of the way of a vessel which is close-hauled on the starboard tack.

(c) When both are running free, with the wind on different sides, the vessel which has the wind on the port side shall keep out of the way of the other.

(d) When both are running free, with the wind on the same side, the vessel which is to the windward shall keep out of the way of the vessel which is to the leeward.

(e) A vessel which has the wind aft shall keep out of the way of the other vessel.

(June 7, 1897, ch. 4, § 1, 30 Stat. 100.)

CODIFICATION

Section was enacted as part of section 1 of act June 7, 1897. Said section 1 enacted sections 61, 154 to 156, 171 to 183, 191, 192, 201 to 213, 221, 222, 231, and 232 of this title.

[1] So in original. There is no item (b).

CROSS REFERENCES

Similar rules—
International rules for navigation at sea, see section 1079 of this title.
Navigation rules for Great Lakes and their connecting and tributary waters, see section 281 of this title.
Navigation rules for Red River of the North and rivers emptying into Gulf of Mexico and tributaries, see section 342 of this title.

§ 203. Steam vessels approaching, meeting, or passing one another; banks obstructing view; leaving dock (article 18)

Rule I. When steam vessels are approaching each other head and head, that is, end on, or nearly so, it shall be the duty of each to pass on the port side of the other; and either vessel shall give, as a signal of her intention, one short and distinct blast of her whistle, which the other vessel shall answer promptly by a similar blast of her whistle, and thereupon such vessels shall pass on the port side of each other.

But if the courses of such vessels are so far on the starboard of each other as not to be considered as meeting head and head, either vessel shall immediately give two short and distinct blasts of her whistle, which the other vessel shall answer promptly by two similar blasts of her whistle, and they shall pass on the starboard side of each other.

The foregoing only applies to cases where vessels are meeting end on or nearly end on, in such a manner as to involve risk of collision; in other words, to cases in which, by day, each vessel sees the masts of the other in a line, or nearly in a line, with her own and by night to cases in which each vessel is in such a position as to see both the sidelights of the other.

It does not apply by day to cases in which a vessel sees another ahead crossing her own course, or by night to cases where the red light of one vessel is opposed to the red light of the other, or where the green light of one vessel is opposed to the green light of the other, or where a red light without a green light or a green light without a red light, is seen ahead, or where both green and red lights are seen anywhere but ahead.

Rule III. If, when steam vessels are approaching each other, either vessel fails to understand the course or intention of the other, from any cause, the vessel so in doubt shall immediately signify the same by giving several short and rapid blasts, not less than four, of the steam whistle.

Rule V. Whenever a steam vessel is nearing a short bend or curve in the channel, where, from the height of the banks or other cause, a steam vessel approaching from the opposite direction cannot be seen for a distance of half a mile, such steam vessel, when she shall have arrived within half a mile of such curve or bend, shall give a signal by one long blast of the steam whistle, which signal shall be answered by a similar blast, given by any approaching steam vessel that may be within hearing. Should such signal be so answered by a steam vessel upon the farther side of such bend, then the usual signals for meeting and passing shall immediately be given and answered; but, if the first alarm signal of such vessel be not answered, she is to consider the channel clear and govern herself accordingly.

When steam vessels are moved from their docks or berths, and other boats are liable to pass from any direction toward them, they shall give the same signal as in the case of vessels meeting at a bend, but immediately after clearing the berths so as to be fully in sight they shall be governed by the steering and sailing rules.

Rule VIII. When steam vessels are running in the same direction, and the vessel which is astern shall desire to pass on the right or starboard hand of the vessel ahead, she shall give one short blast of the steam whistle, as a signal of such desire, and if the vessel ahead answers with one blast, she shall direct her course to starboard; or if she shall desire to pass on the left or port side of the vessel ahead, she shall give two short blasts of the steam whistle as a signal of such desire, and if the vessel ahead answers with two blasts, shall direct her course to port; or if the vessel ahead does not think it safe for the vessel astern to attempt to pass at that point, she shall immediately signify the same by giving several short and rapid blasts of the steam whistle, not less than four, and under no circumstances shall the vessel astern attempt to pass the vessel ahead until such time as they have reached a point where it can be safely done, when said vessel ahead shall signify her willingness by blowing the proper signals. The vessel ahead shall in no case attempt to cross the bow or crowd upon the course of the passing vessel.

Rule IX. The whistle signals provided in the rules under this section, for steam vessels meeting, passing, or overtaking, are never to be used except when steamers are in sight of each other, and the course and position of each can be determined in the daytime by a sight of the vessel itself, or by night by seeing its signal lights. In fog, mist, falling snow or heavy rainstorms, when vessels cannot so see each other, fog signals only must be given.

(June 7, 1897, ch. 4, § 1, 30 Stat. 100; Aug. 21, 1935, ch. 595, § 2, 49 Stat. 669.)

CODIFICATION

Section was enacted as part of section 1 of act June 7, 1897. Said section 1 enacted sections 61, 154 to 156, 171 to 183, 191, 192, 201 to 213, 221, 222, 231, and 232 of this title.

AMENDMENTS

1935—Act Aug. 21, 1935, substituted "direct her course to starboard" for "put her helm to port" and "direct her course to port" for "put her helm to starboard" in Rule VIII.

EFFECTIVE DATE OF 1935 AMENDMENT

Section 5 of act Aug. 21, 1935 provided that "The provisions of this Act [enacting sections 142, 294, and 352 of this title and amending this section] shall become fully effective for all ocean and coastwise vessels on January 1, 1936, and for all vessels on the Great Lakes, bays, sounds, harbors, rivers, and lakes other than the Great Lakes, of the United States on January 1, 1937."

CROSS REFERENCES

Rules similar to Rule I—
International rules for navigation at sea, see sections 1080 and 1090 of this title.
Navigation rules for Great Lakes and their connecting and tributary waters, see sections 282 and 288 of this title.

Navigation rules for Red River of the North and rivers emptying into Gulf of Mexico and tributaries, see section 343 of this title.

Rules similar to Rule III—

International rules for navigation at sea, see section 1090 of this title.

Navigation rules for Great Lakes and their connecting and tributary waters, see section 291 of this title.

Navigation rules for Red River of the North and rivers emptying into Gulf of Mexico and tributaries, see sections 343, 344, and 349 of this title.

Rules similar to Rule V, see navigation rules for Red River of the North and rivers emptying into Gulf of Mexico and tributaries, see section 349 of this title.

Rules similar to Rule VIII—

International rules for navigation at sea, see section 1090 of this title.

Navigation rules for Great Lakes and their connecting and tributary waters, see section 288 of this title.

Navigation rules for Red River of the North and rivers emptying into Gulf of Mexico and tributaries, see section 347 of this title.

Rules similar to Rule IX, see international rules for navigation at sea, section 1090 of this title.

§ 204. Steam vessels crossing (article 19)

When two steam vessels are crossing, so as to involve risk of collision, the vessel which has the other on her own starboard side shall keep out of the way of the other.

(June 7, 1897, ch. 4, § 1, 30 Stat. 101.)

CODIFICATION

Section was enacted as part of section 1 of act June 7, 1897. Said section 1 enacted sections 61, 154 to 156, 171 to 183, 191, 192, 201 to 213, 221, 222, 231, and 232 of this title.

CROSS REFERENCES

Crossing ahead of vessel having right of way, see section 207 of this title.

Duty of burdened vessel to slacken speed, stop, or reverse, see section 208 of this title.

Overtaking vessel to keep out of the way, see section 209 of this title.

Similar rules—

International rules for navigation at sea, see section 1081 of this title.

Navigation rules for Great Lakes and their connecting and tributary waters, see section 283 of this title.

Navigation rules for Red River of the North and rivers emptying into Gulf of Mexico and tributaries, see section 344 of this title.

Special rules authorized, see section 157 of this title.

Vessel having right of way to keep course and speed, see section 206 of this title.

§ 205. Steam and sailing vessels meeting (article 20)

When a steam vessel and a sailing vessel are proceeding in such directions as to involve risk of collision, the steam vessel shall keep out of the way of the sailing vessel. This rule shall not give to a sailing vessel the right to hamper, in a narrow channel, the safe passage of a steam vessel which can navigate only inside that channel.

(June 7, 1897, ch. 4, § 1, 30 Stat. 101; Nov. 5, 1966, Pub. L. 89-764, § 1, 80 Stat. 1313.)

CODIFICATION

Section was enacted as part of section 1 of act June 7, 1897. Said section 1 enacted sections 61, 154 to 156, 171 to 183, 191, 192, 201 to 213, 221, 222, 231, and 232 of this title.

AMENDMENTS

1966—Pub. L. 89-764 inserted sentence providing that this rule shall not give to a sailing vessel the right to hamper, in a narrow channel, the safe passage of a steam vessel which can navigate only inside that channel.

EFFECTIVE DATE OF 1966 AMENDMENT

Section 7 of Pub. L. 89-764 provided that: "The amendments made by this Act [enacting section 348a of this title and amending sections 205, 210, 284, 289 and 345 of this title] shall take effect as of the ninetieth day after the date of enactment of this Act [Nov. 5, 1966]."

CROSS REFERENCES

Crossing ahead of vessel having right of way, see section 207 of this title.

Duty of steam vessel to slacken speed, stop, or reverse, see section 208 of this title.

Similar rules—

International rules for navigation at sea, see section 1082 of this title.

Navigation rules for Great Lakes and their connecting and tributary waters, see section 284 of this title.

Navigation rules for Red River of the North and rivers emptying into Gulf of Mexico and tributaries, see section 345 of this title.

§ 206. Vessel having right of way to keep course (article 21)

Where, by any of these rules, one of the two vessels is to keep out of the way, the other shall keep her course and speed.

(June 7, 1897, ch. 4, § 1, 30 Stat. 101.)

CODIFICATION

Section was enacted as part of section 1 of act June 7, 1897. Said section 1 enacted sections 61, 154 to 156, 171 to 183, 191, 192, 201 to 213, 221, 222, 231, and 232 of this title.

CROSS REFERENCES

Similar rules—

International rules for navigation at sea, see section 1083 of this title.

Navigation rules for Great Lakes and their connecting and tributary waters, see section 285 of this title.

Navigation rules for Red River of the North and rivers emptying into Gulf of Mexico and tributaries, see section 348 of this title.

§ 207. Crossing ahead of vessel having right-of-way (article 22)

Every vessel which is directed by these rules to keep out of the way of another vessel shall, if the circumstances of the case admit, avoid crossing ahead of the other.

(June 7, 1897, ch. 4, § 1, 30 Stat. 101.)

REFERENCES IN TEXT

These rules, referred to in text, mean articles 1 to 32 which were promulgated by section 1 of act June 7, 1897, and classified to sections 171 to 183, 191, 192, 201 to 213, 221, 222, 231, and 232 of this title.

CODIFICATION

Section was enacted as part of section 1 of act June 7, 1897. Said section 1 enacted sections 61, 154 to 156, 171 to 183, 191, 192, 201 to 213, 221, 222, 231, and 232 of this title.

CROSS REFERENCES

Burdened vessel's duty to keep out of way on crossing courses, see section 204 of this title.
Similar rule, international rules for navigation at sea, see section 1084 of this title.

§ 208. Duty of steam vessel to slacken speed (article 23)

Every steam vessel which is directed by these rules to keep out of the way of another vessel shall, on approaching her, if necessary, slacken her speed or stop or reverse.

(June 7, 1897, ch. 4, § 1, 30 Stat. 101.)

REFERENCES IN TEXT

These rules, referred to in text, mean articles 1 to 32 which were promulgated by section 1 of act June 7, 1897, and are classified to sections 171 to 183, 191, 192, 201 to 213, 221, 222, 231, and 232 of this title.

CODIFICATION

Section was enacted as part of section 1 of act June 7, 1897. Said section 1 enacted sections 61, 154 to 156, 171 to 183, 191, 192, 201 to 213, 221, 222, 231, and 232 of this title.

CROSS REFERENCES

Similar rules—
International rules for navigation at sea, see section 1085 of this title.
Navigation rules for Great Lakes and their connecting and tributary waters, see sections 286 and 291 of this title.
Navigation rules for Red River of the North and rivers emptying into Gulf of Mexico and tributaries, see section 346 of this title.

§ 209. Overtaking vessel to keep out of the way; definition of "overtaking vessel" (article 24)

Notwithstanding anything contained in these rules every vessel, overtaking any other, shall keep out of the way of the overtaken vessel.

Every vessel coming up with another vessel from any direction more than two points abaft her beam, that is, in such a position with reference to the vessel which she is overtaking that at night she would be unable to see either of that vessel's side lights, shall be deemed to be an overtaking vessel; and no subsequent alteration of the bearing between the two vessels shall make the overtaking vessel a crossing vessel within the meaning of these rules, or relieve her of the duty of keeping clear of the overtaken vessel until she is finally past and clear.

As by day the overtaking vessel cannot always know with certainty whether she is forward of or abaft this direction from the other vessel she should, if in doubt, assume that she is an overtaking vessel and keep out of the way.

(June 7, 1897, ch. 4, § 1, 30 Stat. 101.)

REFERENCES IN TEXT

These rules, referred to in text, mean articles 1 to 32 which were promulgated by section 1 of act June 7, 1897, and are classified to sections 171 to 183, 191, 192, 201 to 213, 221, 222, 231, and 232 of this title.

CODIFICATION

Section was enacted as part of section 1 of act June 7, 1897. Said section 1 enacted sections 61, 154 to 156, 171 to 183, 191, 192, 201 to 213, 221, 222, 231, and 232 of this title.

CROSS REFERENCES

Signals of overtaking and overtaken vessel, see section 203 of this title.
Similar rules—
International rules for navigation at sea, see section 1086 of this title.
Navigation rules for Great Lakes and their connecting and tributary waters, see section 287 of this title.
Navigation rules for Red River of the North and rivers emptying into Gulf of Mexico and tributaries, see section 347 of this title.

§ 210. Steam vessel in narrow channel (article 25)

In narrow channels every steam vessel shall, when it is safe and practicable, keep to that side of the fairway or mid-channel which lies on the starboard side of such vessel.

In narrow channels a steam vessel of less than sixty-five feet in length shall not hamper the safe passage of a vessel which can navigate only inside that channel.

(June 7, 1897, ch.4, § 1, 30 Stat. 101; Nov. 5, 1966, Pub. L. 89-764, § 2, 80 Stat. 1313.)

CODIFICATION

Section was enacted as part of section 1 of act June 7, 1897. Said section 1 enacted sections 61, 154 to 156, 171 to 183, 191, 192, 201 to 213, 221, 222, 231, and 232 of this title.

AMENDMENTS

1966—Pub. L. 89-764 inserted sentence providing that in narrow channels a steam vessel of less than sixty-five feet in length shall not hamper the safe passage of a vessel which can navigate only inside that channel.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-764 effective as of the ninetieth day after Nov. 5, 1966, see section 7 of Pub. L. 89-764, set out as an Effective Date of 1966 Amendment note under section 205 of this title.

CROSS REFERENCES

Similar rule, international rules for navigation at sea, see section 1087 of this title.

§ 211. Right of way of fishing vessels or boats; obstruction of fairway (article 26)

Sailing vessels under way shall keep out of the way of sailing vessels or boats fishing with nets, or lines, or trawls. This section shall not give to any vessel or boat engaged in fishing the right of obstructing a fairway used by vessels other than fishing vessels or boats.

(June 7, 1897, ch. 4, § 1, 30 Stat. 102.)

CODIFICATION

Section was enacted as part of section 1 of act June 7, 1897. Said section 1 enacted sections 61, 154 to 156, 171 to 183, 191, 192, 201 to 213, 221, 231, and 232 of this title.

CROSS REFERENCES

Similar rule, international rules for navigation at sea, see section 1088 of this title.

§ 212. Special circumstances requiring departure from rules (article 27)

In obeying and construing these rules due regard shall be had to all dangers of navigation and collision, and to any special circumstances which may render a departure from the above

rules necessary in order to avoid immediate danger.

(June 7, 1897, ch. 4, § 1, 30 Stat. 102.)

REFERENCES IN TEXT

These rules, referred to in text, mean articles 1 to 32 which were promulgated by section 1 of act June 7, 1897, and classified to sections 171 to 183, 191, 192, 201 to 213, 221, 222, 231, and 232 of this title.

CODIFICATION

Section was enacted as part of section 1 of act June 7, 1897. Said section 1 enacted sections 61, 154 to 156, 171 to 183, 191, 192, 201 to 213, 221, 222, 231, and 232 of this title.

CROSS REFERENCES

Similar rules—
International rules for navigation at sea, see section 1089 of this title.
Navigation rules for Great Lakes and their connecting and tributary waters, see section 292 of this title.
Navigation rules for Red River of the North and rivers emptying into Gulf of Mexico and tributaries, see section 350 of this title.

§ 213. Signal of full speed of engines astern (article 28)

When vessels are in sight of one another a steam vessel under way whose engines are going at full speed astern shall indicate that fact by three short blasts on the whistle.

(June 7, 1897, ch. 4, § 1, 30 Stat. 102.)

CODIFICATION

Section was enacted as part of section 1 of act June 7, 1897. Said section 1 enacted sections 61, 154 to 156, 171 to 183, 191, 192, 201 to 213, 221, 222, 231, and 232 of this title.

CROSS REFERENCES

Similar rule, international rules for navigation at sea, see section 1090 of this title.

SUBCHAPTER V—NO VESSEL UNDER ANY CIRCUMSTANCES TO NEGLECT PROPER PRECAUTIONS

§ 221. Usual additional precautions required generally (article 29)

Nothing in these rules shall exonerate any vessel, or the owner or master or crew thereof, from the consequences of any neglect to carry lights or signals, or of any neglect to keep a proper lookout, or of the neglect of any precaution which may be required by the ordinary practice of seamen, or by the special circumstances of the case.

(June 7, 1897, ch. 4, § 1, 30 Stat. 102.)

REFERENCES IN TEXT

These rules, referred to in subsec. (a), mean articles 1 to 32 which were promulgated by section 1 of act June 7, 1897, and are classified to sections 171 to 183, 191, 192, 201 to 213, 221, 222, 231, and 232 of this title.

CODIFICATION

Section was enacted as part of section 1 of act June 7, 1897. Said section 1 enacted sections 61, 154 to 156, 171 to 183, 191, 192, 201 to 213, 221, 222, 231, and 232 of this title.

CROSS REFERENCES

Similar rules—
International rules for navigation at sea, see section 1091 of this title.
Navigation rules for Great Lakes and their connecting and tributary waters, see section 293 of this title.
Navigation rules for Red River of the North and rivers emptying into Gulf of Mexico and tributaries, see section 351 of this title.

§ 222. Lights on war and Coast Guard vessels; exhibition suspended (article 30)

The exhibition of any light on board of a vessel of war of the United States or a Coast Guard vessel may be suspended whenever, in the opinion of the Secretary of the Navy, the commander in chief of a squadron, or the commander of a vessel acting singly, the special character of the service may require it.

(June 7, 1897, ch. 4, § 1, 30 Stat. 102.)

CODIFICATION

Section was enacted as part of section 1 of act June 7, 1897. Said section 1 enacted sections 61, 154 to 156, 171 to 183, 191, 192, 201 to 213, 221, 222, 231, and 232 of this title.

"Coast Guard vessel" was substituted for "revenue cutter" on authority of act Jan. 28, 1915, ch. 20, § 1, 38 Stat. 800. That act was repealed by act Aug. 4, 1949, ch. 393, § 20, 63 Stat. 561, section 1 of which reestablished the Coast Guard by enacting Title 14, Coast Guard.

Similar provisions were contained in act Feb. 8, 1895, ch. 64, § 1, 28 Stat. 647, and are classified to section 262 of this title.

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation, and all functions, powers, and duties relating to the Coast Guard of the Secretary of the Treasury and of other officers and offices of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, § 6(b)(1), Oct. 15, 1966, 80 Stat. 938. Section 6(b)(2) of Pub. L. 89-670, however, provided that notwithstanding such transfer of functions, the Coast Guard shall operate as part of the Navy in time of war or when the President directs as provided in section 3 of Title 14, Coast Guard. See section 1655 of Title 49, Transportation.

For transfer of functions of other officers, employees, and agencies of the Department of the Treasury, with certain exceptions, to the Secretary of the Treasury with power to delegate, see Reorg. Plan No. 26 of 1950, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, 1281, set out in the Appendix to Title 5, Government Organization and Employees. Functions of the Coast Guard, and the Commandant of the Coast Guard, were excepted from transfer when the Coast Guard is operating as part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

CROSS REFERENCES

Exemption of certain Navy and Coast Guard vessels from navigation rules concerning lights, see sections 360, 360a, and 1052 of this title.

Special rules respecting station and signal lights for ships of war authorized under international rules for navigation at sea, see section 1073 of this title.

SUBCHAPTER VI—DISTRESS SIGNALS

§ 231. Distress signals in daytime and at night (article 31)

When a vessel is in distress and requires assistance from other vessels or from the shore the following shall be the signals to be used or displayed by her, either together or separately, namely:

IN THE DAYTIME—A continuous sounding with any fog-signal apparatus, or firing a gun.

AT NIGHT—First. Flames on the vessel as from a burning tar barrel, oil barrel, and so forth.

Second. A continuous sounding with any fog-signal apparatus, or firing a gun.

(June 7, 1897, ch. 4, § 1, 30 Stat. 102.)

CODIFICATION

Section was enacted as part of section 1 of act June 7, 1897. Said section 1 enacted sections 61, 154 to 156, 171 to 183, 191, 192, 201 to 213, 221, 222, 231, and 232 of this title.

CROSS REFERENCES

Detonating signal, see section 181 of this title.

International rules for navigation at sea, distress signals, see section 1093 of this title.

Radio distress signals, see section 321 of Title 47, Telegraphs, Telephones, and Radiotelegraphs.

SUBCHAPTER VII—ORDERS

§ 232. Orders to helmsmen (article 32)

All orders to helmsmen shall be given as follows:

"Right Rudder" to mean "Direct the vessel's head to starboard."

"Left Rudder" to mean "Direct the vessel's head to port."

(June 7, 1897, ch. 4, § 1, as added Aug. 21, 1935, ch. 595, § 2, 49 Stat. 669.)

CODIFICATION

Section was enacted as part of section 1 of act June 7, 1897. Said section 1 enacted sections 61, 154 to 156, 171 to 183, 191, 192, 201 to 213, 221, 222, 231, and 232 of this title.

EFFECTIVE DATE

Section effective with respect to all ocean and coastwise vessels on Jan. 1, 1936, and with respect to all vessels on the Great Lakes, bays, sounds, harbors, rivers, and lakes other than the Great Lakes on Jan. 1, 1937, see section 5 of act Aug. 21, 1935, set out as an Effective Date of 1935 Amendment note under section 203 of this title.

CROSS REFERENCES

Similar rules—

Navigation rules for Great Lakes and their connecting and tributary waters, see section 294 of this title.

Navigation rules for Red River of the North and rivers emptying into Gulf of Mexico and tributaries, see section 352 of this title.

CHAPTER 4—NAVIGATION RULES FOR GREAT LAKES AND THEIR CONNECTING AND TRIBUTARY WATERS

SUBCHAPTER I—PRELIMINARY

Sec.
241. Adoption of rules for navigation of Great Lakes, etc.
242. "Sailing vessel", "steam vessel", and "under way" defined.
243. Special regulation by Commandant of the Coast Guard.
244. Penalty for violation of provisions.
(a) Persons liable.
(b) Liability of vessel.

SUBCHAPTER II—RULES CONCERNING LIGHTS, ETC.

251. Time for lights; prescribed lights exclusive; visible defined.
252. Lights of steam vessel under way.
253. Lights of steam vessel having a tow other than raft.
254. Lights of steam vessel having raft in tow.
255. Lights of sailing vessel under way and vessel in tow.
256. Lights of small tugs, boats on River St. Lawrence, ferryboats, rafts, and canal boats; regulations.
257. Lights of small vessels under way in bad weather.
258. Lights of vessel at anchor.
259. Lights of produce boats, canal boats, etc., navigating by hand or horsepower or by sail or by current, or at anchor.
260. Lights of open boat.
261. Use of torch by sailing vessel on approach of steamer.
262. Suspension of lights by vessel of war or Coast Guard vessels.

SUBCHAPTER III—SOUND SIGNALS FOR FOG, ETC.; SPEED

271. Sound signals in fog, etc., of steam and sailing vessels under way, at anchor or aground.
272. Speed in fog, etc.

SUBCHAPTER IV—STEERING AND SAILING RULES

281. Sailing vessels approaching one another.
282. Steam vessels meeting end on.
283. Steam vessels crossing.
284. Steam and sailing vessels meeting.
285. Vessel having right of way to keep course.
286. Duty of steam vessel to slacken speed.
287. Overtaking vessel to keep out of the way.
288. Whistle signals of steam vessels to indicate course.
289. Steam vessels meeting in narrow channels having current and certain rivers; right-of-way.
290. Steam vessels passing in narrow channels; slackening speed.
291. Dissent to or misunderstanding of signal given; duty to reduce speed.
292. Departure from rules to avert immediate danger.
293. Usual additional precautions required generally.

SUBCHAPTER V—ORDERS

294. Orders to helmsmen.

SUBCHAPTER VI—VESSELS NOT UNDER WAY

295. Day and night signals for vessels anchored, not under command, or aground.
(a) Vessel at anchor.
(b) Vessel not under command.
(c) Vessel aground.

CROSS REFERENCES

Exemption of certain Navy and Coast Guard vessels from navigation rules concerning lights, see sections 360, 360a, and 1052 of this title.

Light and sounding signal devices on motor boats, and sailing and steering rules, relating thereto, see sections 526b to 526d of Title 46, Shipping.

Small passenger-carrying vessels, inspection, see sections 390 to 390g of Title 46.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 360 of this title.

SUBCHAPTER I—PRELIMINARY

§ 241. Adoption of rules for navigation of Great Lakes, etc.

The following rules for preventing collisions shall be followed in the navigation of all public and private vessels of the United States upon the Great Lakes and their connecting and tributary waters as far east as Montreal and in the navigation of all other vessels upon such lakes and waters while within the territorial waters of the United States.

(Feb. 8, 1895, ch. 64, § 1, 28 Stat. 645; Mar. 28, 1958, Pub. L. 85-350, § 1, 72 Stat. 49.)

REFERENCES IN TEXT

The following rules, referred to in text, mean rules 1 to 30 which were promulgated by section 1 of act Feb. 8, 1895, and are classified to sections 242, 251 to 262, 271, 272, and 281 to 295 of this title.

CODIFICATION

This is the first paragraph of section 1 of act Feb. 8, 1895.

Further paragraphs of section 1, containing the rules prescribed (Rules 1 to 30), comprise the balance of this chapter except for sections 243 and 244 of this title which were derived, respectively, from sections 3 and 2 of that act.

PRIOR PROVISIONS

The rules for preventing collisions on the water, prescribed by R.S. § 4233, to be followed by vessels of the Navy and mercantile marine of the United States, applicable originally to all waters, having been superseded as to navigation of the high seas and waters connected therewith by act Aug. 19, 1890, ch. 802, § 1, 26 Stat. 320 (section 61 et seq. of this title), were further superseded by act Feb. 8, 1895, as to navigation on the Great Lakes and their connecting and tributary waters mentioned in this paragraph.

Said rules prescribed by R.S. § 4233, were expressly adopted for the navigation of harbors, rivers, and inland waters of the United States, except the Great Lakes, etc., by act Feb. 19, 1895, ch. 102, § 1, 28 Stat. 672 (see Codification note to section 301 of this title); and said rules were superseded as to navigation of all harbors, rivers, and inland waters of the United States, except the Great Lakes and their connecting and tributary waters as far east as Montreal and the Red River of the North and rivers emptying into the Gulf of Mexico and their tributaries by act June 7, 1897, ch. 4, § 1, 30 Stat. 96 (section 151 et seq. of this title), leaving them applicable solely to the Red River of the North and rivers emptying into the Gulf of Mexico (see section 301 et seq. of this title).

AMENDMENTS

1958—Pub. L. 85-350 added the words "and in the navigation of all other vessels upon such lakes and waters while within the territorial waters of the United States".

EFFECTIVE DATE

Section 5 of act Feb. 8, 1895, provided that the Act (this chapter) shall take effect on and after March 1, 1895.

REPEALS

Section 4 of act Feb. 8, 1895, repealed all laws or parts of laws, so far as applicable to the navigation of the Great Lakes and their connecting and tributary waters as far east as Montreal, inconsistent with the rules prescribed, and has been omitted as executed.

CROSS REFERENCES

Similar provisions—
International rules for navigation at sea, see section 1051 of this title.
Navigation rules for harbors, rivers, and inland waters generally, see section 154 of this title.
Navigation rules for Red River of the North and rivers emptying into Gulf of Mexico and tributaries, see section 301 of this title.

§ 242. "Sailing vessel", "steam vessel", and "under way" defined (Rule 1)

Every steam vessel which is under sail and not under steam, shall be considered a sail vessel; and every steam vessel which is under steam, whether under sail or not, shall be considered a steam vessel. The words "steam vessel" shall include any vessel propelled by machinery. A vessel is under way within the meaning of these rules when she is not at anchor or made fast to the shore or aground.

(Feb. 8, 1895, ch. 64, § 1, 28 Stat. 645.)

REFERENCES IN TEXT

These rules, referred to in text, mean rules 1 to 30 which were promulgated by section 1 of act Feb. 8, 1895, and are classified to sections 242, 251 to 262, 271, 272, and 281 to 295 of this title.

CODIFICATION

Section was enacted as part of section 1 of act Feb. 8, 1895. Said section 1 enacted sections 241, 242, 251 to 262, 271, 272, and 281 to 295 of this title.

CROSS REFERENCES

Similar rules—
International rules for navigation at sea, see section 1061 of this title.
Navigation rules for harbors, rivers and inland waters generally, see section 155 of this title.
Navigation rules for Red River of the North and rivers emptying into Gulf of Mexico and tributaries, see section 302 of this title.

§ 243. Special regulation by Commandant of the Coast Guard

The Commandant of the Coast Guard of the United States shall have authority to establish all necessary regulations, not inconsistent with the provisions of this chapter, required to carry the same into effect.

The Commandant of the Coast Guard of the United States shall have authority to establish such regulations to be observed by all steam vessels in passing each other, not inconsistent with the provisions of this chapter, as he shall from time to time deem necessary; and all regulations adopted by the said Commandant of the Coast Guard under the authority of this chapter shall have the force of law. Two printed copies of any such regulations for passing, signed by him, shall be furnished to each steam vessel, and shall at all times be kept posted up in conspicuous places on board.

(Feb. 8, 1895, ch. 64, § 3, 28 Stat. 649; Feb. 14, 1903, ch. 552, § 10, 32 Stat. 829; Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736; 1946 Reorg. Plan No. 3, §§ 101-104, eff. July 16, 1946, 11 F.R. 7875, 60 Stat. 1097.)

CODIFICATION

See Codification note under section 241 of this title.

CHANGE OF NAME

The Department of Commerce and Labor and the Secretary thereof were designated the Department of Commerce and Secretary of Commerce and a new executive department was designated as the Department of Labor with a Secretary of Labor by act Mar. 4, 1913.

TRANSFER OF FUNCTIONS

As originally enacted this section referred to the Secretary of the Treasury. The Secretary of Commerce and Labor was substituted for the Secretary of the Treasury under authority of act Feb. 14, 1903, which transferred the functions of the Secretary of the Treasury relating to navigation and shipping to the Secretary of Commerce and Labor.

References to the Secretary of Commerce and the Board of Supervising Inspectors were changed to Com-

mandant of the Coast Guard on authority of Reorg. Plan No. 3 of 1946, §§ 101 to 104, set out in the Appendix to Title 5, Government Organization and Employees.

The Coast Guard was transferred to the Department of Transportation, and all functions, powers, and duties relating to the Coast Guard of the Secretary of the Treasury and of other officers and offices of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, § 6(b)(1), Oct. 15, 1966, 80 Stat. 938. Section 6(b)(2) of Pub. L. 89-670, however, provided that notwithstanding such transfer of functions, the Coast Guard shall operate as part of the Navy in time of war or when the President directs as provided in section 3 of Title 14, Coast Guard. See section 1655 of Title 49, Transportation.

For transfer of functions of other officers, employees, and agencies of the Department of the Treasury, with certain exceptions, to the Secretary of the Treasury with power to delegate, see Reorg. Plan No. 26 of 1950, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, 1281, set out in the Appendix to Title 5, Government Organization and Employees. Functions of the Coast Guard, and the Commandant of the Coast Guard, were excepted from transfer when the Coast Guard is operating as part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

CROSS REFERENCES

Commandant of the Coast Guard—
Movement and anchorage of vessels in Saint Marys River, rules governing and effect on this chapter, see section 474 of this title.
Similar provisions—
Navigation rules for harbors, rivers and inland waters generally, see section 157 of this title.
Navigation rules for Red River of the North and rivers emptying into Gulf of Mexico and tributaries, see section 353 of this title.

§ 244. Penalty for violation of provisions

(a) Persons liable

Every licensed or unlicensed pilot, engineer, mate, or master of any vessel subject to section 1 of this Act who neglects or refuses to observe the provisions of section 1 of this Act or the regulations established pursuant hereto shall be liable to a penalty not exceeding $500.

(b) Liability of vessel

Every private vessel subject to section 1 of this Act that shall be navigated without complying with the provisions of section 1 of this Act or the regulations established pursuant hereto shall be liable to a penalty of $500, for which sum such vessel may be seized and proceeded against by way of libel in any district court of the United States of any district within which such vessel may be found.

(Feb. 8, 1895, ch. 64, § 2, 28 Stat. 649; Mar. 28, 1958, Pub. L. 85-350, § 2, 72 Stat. 49.)

REFERENCES IN TEXT

Section 1 of this Act, referred to in text, means section 1 of act Feb. 8, 1895, which enacted sections 241, 242, 251 to 262, 271, 272, and 281 to 295 of this title.

CODIFICATION

See Codification note under section 241 of this title.

AMENDMENTS

1958—Pub. L. 85-350 made private vessel liable to penalty of $500 and added provision making pilot, engineer, mate, or master liable to $500 penalty, in lieu of former provisions making vessel liable to penalty of $200.

CROSS REFERENCES

Similar provisions—
Navigation rules for harbors, rivers and inland waters generally, see sections 158 and 159 of this title.
Navigation rules for Red River of the North and rivers emptying into Gulf of Mexico and tributaries, see sections 354 and 355 of this title.

SUBCHAPTER II—RULES CONCERNING LIGHTS, ETC.

§ 251. Time for lights; prescribed lights exclusive; visible defined (Rule 2)

The lights mentioned in the following rules, and no others which may be mistaken for the prescribed lights, shall be exhibited in all weathers from sunset to sunrise. The word "visible" in these rules, when applied to lights, shall mean visible on a dark night with a clear atmosphere.

(Feb. 8, 1895, ch. 64, § 1, 28 Stat. 645; May 17, 1928, ch. 600, 45 Stat. 592.)

REFERENCES IN TEXT

The following rules, referred to in text, mean rules 3 to 30 which were promulgated by section 1 of act Feb. 8, 1895, and are classified to sections 252 to 262, 271, 272, and 281 to 295 of this title.

These rules, referred to in text, mean rules 1 to 30 which were promulgated by section 1 of act Feb. 8, 1895, and are classified to sections 242, 251 to 262, 271, 272, and 281 to 295 of this title.

CODIFICATION

Section was enacted as part of section 1 of act Feb. 8, 1895. Said section 1 enacted sections 241, 242, 251 to 262, 271, 272, and 281 to 295 of this title.

AMENDMENTS

1928—Act May 17, 1928, substituted "which may be mistaken for the prescribed lights, shall be exhibited" for "shall be carried" preceding "in all weathers".

CROSS REFERENCES

Similar rules—
International rules for navigation at sea, see section 1061 of this title.
Navigation rules for harbors, rivers and inland waters generally, see sections 156 and 171 of this title.
Navigation rules for Red River of the North and rivers emptying into Gulf of Mexico and tributaries, see sections 302 and 311 of this title.

§ 252. Lights of steam vessel under way (Rule 3)

Except in the cases hereinafter expressly provided for, a steam vessel when under way shall carry:

(a) On or in front of the foremast, or if a vessel without a foremast, then in the fore part of the vessel, a bright white light so constructed as to show an unbroken light over an arc of the horizon of twenty points of the compass, so fixed as to throw the light ten points on each side of the vessel, namely, from right ahead to two points abaft the beam on either side, and of such a character as to be visible at a distance of at least five miles. Such light shall be at a greater height above the water than the side lights required by subdivisions (b) and (c) of this section.

(b) On the starboard side, a green light, so constructed as to throw an unbroken light over an arc of the horizon of ten points of the com-

pass, so fixed as to throw the light from right ahead to two points abaft the beam on the starboard side, and of such a character as to be visible at a distance of at least two miles.

(c) On the port side, a red light, so constructed as to show an unbroken light over an arc of the horizon of ten points of the compass, so fixed as to throw the light from right ahead to two points abaft the beam on the port side, and of such a character as to be visible at a distance of at least two miles.

(d) The said green and red lights shall be fitted with inboard screens projecting at least three feet forward from the light, so as to prevent these lights from being seen across the bow.

(e) A steamer of over one hundred feet register length shall carry also, when under way, a bright white light so fixed as to throw the light all around the horizon, and of such a character as to be visible at a distance of at least three miles. Such light shall be placed in line with the keel at least fifteen feet higher than, and more than fifty feet abaft, the light mentioned in subdivision (a) of this section; or in lieu thereof two such lights of the same character and height as herein described placed not over thirty inches apart horizontally, one on either side of the keel, and so arranged that one or the other or both shall be visible from any angle of approach.

(f) A steam vessel not more than one hundred feet in length shall carry also a bright white light aft to show all around the horizon. Such light shall be placed in line with the keel higher than the light required by subdivision (a) of this section.

(Feb. 8, 1895, ch. 64, § 1, 28 Stat. 645; May 17, 1928, ch. 600, 45 Stat. 592; Feb. 28, 1929, ch. 370, 45 Stat. 1405; May 9, 1932, ch. 175, § 1, 47 Stat. 152; Mar. 18, 1948, ch. 138, §§ 1-3, 62 Stat. 82.)

CODIFICATION

Section was enacted as part of section 1 of act Feb. 8, 1895. Said section 1 enacted sections 241, 242, 251 to 262, 271, 272, and 281 to 295 of this title.

AMENDMENTS

1948—Subd. (a). Act Mar. 18, 1948, § 1, required the white light on the fore part of the ship to be displayed at a greater height above the water than the side lights.

Subd. (e). Act Mar. 18, 1948, § 2, brought within the requirements of this subd. vessels of 100 ft. or over registered length.

Subd. (f). Act Mar. 18, 1948, § 3, added subd. (f).

1932—Subd. (a). Act May 9, 1932, added a proviso permitting canal vessels to carry the headlight at not less than twenty feet above the hull.

1929—Subd. (e). Act Feb. 28, 1929, substituted reference to "(a)" for "(e)".

1928—Subd. (e). Act May 17, 1928, authorized, among other changes, as an alternative to the single white light requirement, the carrying of two white lights.

EFFECTIVE DATE OF 1932 AMENDMENT

Section 2 of act May 9, 1932, provided that: "This Act shall take effect April 15, 1932."

CROSS REFERENCES

Similar rules—
International rules for navigation at sea, see section 1062 of this title.
Navigation rules for harbors, rivers and inland waters generally, see section 172 of this title.
Navigation rules for Red River of the North and rivers emptying into Gulf of Mexico and tributaries, see section 312 et seq. of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 253, 255, 295 of this title.

§ 253. Lights of steam vessel having a tow other than raft (Rule 4)

A steam vessel having a tow other than a raft shall in addition to the forward bright light mentioned in subdivision (a) of section 252 of this title carry in a vertical line not less than six feet above or below that light a second bright light of the same construction and character and fixed and carried in the same manner as the forward bright light mentioned in said subdivision (a) of section 252 of this title. Such steamer shall also carry a small bright light abaft the funnel or after mast for the tow to steer by, but such light shall not be visible forward of the beam.

(Feb. 8, 1895, ch. 64, § 1, 28 Stat. 646.)

CODIFICATION

Section was enacted as part of section 1 of act Feb. 8, 1895. Said section 1 enacted sections 241, 242, 251 to 262, 271, 272, and 281 to 295 of this title.

CROSS REFERENCES

Similar rules—
International rules for navigation at sea, see section 1065 of this title.
Navigation rules for harbors, rivers and inland waters generally, see section 174 of this title.
Navigation rules for Red River of the North and rivers emptying into Gulf of Mexico and tributaries, see section 317 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 254 of this title.

§ 254. Lights of steam vessel having raft in tow (Rule 5)

A steam vessel having a raft in tow shall, instead of the forward lights mentioned in section 253 of this title, carry on or in front of the foremast, or if a vessel without a foremast then in the fore part of the vessel, at a height above the hull of not less than twenty feet, and if the beam of the vessel exceeds twenty feet, then at a height above the hull not less than such beam, so however that such height need not exceed forty feet, two bright lights in a horizontal line athwartships and not less than eight feet apart, each so fixed as to throw the light all around the horizon and of such character as to be visible at a distance of at least five miles. Such steamer shall also carry the small bright steering light aft, of the character and fixed as required in section 253 of this title.

(Feb. 8, 1895, ch. 64, § 1, 28 Stat. 646.)

CODIFICATION

Section was enacted as part of section 1 of act Feb. 8, 1895. Said section 1 enacted sections 241, 242, 251 to 262, 271, 272, and 281 to 295 of this title.

§ 255. Lights of sailing vessel under way and vessel in tow (Rule 6)

A sailing vessel under way and any vessel being towed shall carry the side lights mentioned in section 252 of this title.

A vessel in tow shall also carry a small bright light aft, but such light shall not be visible forward of the beam.

(Feb. 8, 1895, ch. 64, § 1, 28 Stat. 646.)

CODIFICATION

Section was enacted as part of section 1 of act Feb. 8, 1895. Said section 1 enacted sections 241, 242, 251 to 262, 271, 272, and 281 to 295 of this title.

CROSS REFERENCES

Similar rules—
International rules for navigation at sea, see section 1065 of this title.
Navigation rules for harbors, rivers and inland waters generally, see section 174 of this title.
Navigation rules for Red River of the North and rivers emptying into Gulf of Mexico and tributaries, see section 317 of this title.

§ 256. Lights of small tugs, boats on River St. Lawrence, ferryboats, rafts, and canal boats; regulations (Rule 7)

The lights for tugs under one hundred tons register (net), whose principal business is harbor towing, and for boats navigating only on the River Saint Lawrence, also ferryboats, rafts, and canal boats, shall be regulated by rules which have been or may hereafter be prescribed by the Commandant of the Coast Guard.

(Feb. 8, 1895, ch. 64, § 1, 28 Stat. 646; May 17, 1928, ch. 601, § 1, 45 Stat. 593; 1946 Reorg. Plan No. 3, §§ 101–104, eff. July 16, 1946, 11 F.R. 7875, 60 Stat. 1097.)

CODIFICATION

Section was enacted as part of section 1 of act Feb. 8, 1895. Said section 1 enacted sections 241, 242, 251 to 262, 271, 272, and 281 to 295 of this title.

AMENDMENTS

1928—Act May 17, 1928, § 1, substituted "one hundred tons register (net)," for "thirty tons register".

REPEAL OF CONFLICTING LAWS

Section 2 of act May 17, 1928, repealed all inconsistent laws or parts of laws.

TRANSFER OF FUNCTIONS

"Commandant of the Coast Guard" was substituted for "Board of Supervising Inspectors of Steam Vessels" on authority of Reorg. Plan No. 3 of 1946, set out in the Appendix to Title 5, Government Organization and Employees.

The Coast Guard was transferred to the Department of Transportation, and all functions, powers, and duties relating to the Coast Guard of the Secretary of the Treasury and of other officers and offices of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, § 6(b)(1), Oct. 15, 1966, 80 Stat. 938. Section 6(b)(2) of Pub. L. 89-670, however, provided that notwithstanding such transfer of functions, the Coast Guard shall operate as part of the Navy in time of war or when the President directs as provided in section 3 of Title 14, Coast Guard. See section 1655 of Title 49, Transportation.

For transfer of functions of other officers, employees, and agencies of the Department of the Treasury, with certain exceptions, to the Secretary of the Treasury with power to delegate, see Reorg. Plan No. 26 of 1950, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, 1281, set out in the Appendix to Title 5, Government Organization and Employees. Functions of the Coast Guard, and the Commandant of the Coast Guard, where excepted from transfer when the Coast Guard is operating as part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

CROSS REFERENCES

Similar rules—
Navigation rules for harbors, rivers, and inland waters generally, see section 178 of this title.
Navigation rules for Red River of the North and rivers emptying into Gulf of Mexico and tributaries, see section 316 of this title.

§ 257. Lights of small vessels under way in bad weather (Rule 8)

Whenever, as in the case of small vessels under way during bad weather, the green and red side lights cannot be fixed, these lights shall be kept at hand lighted and ready for use, and shall, on the approach of or to other vessels, be exhibited on their respective sides in sufficient time to prevent collision, in such manner as to make them most visible, and so that the green light shall not be seen on the port side, nor the red light on the starboard side, nor, if practicable, more than two points abaft the beam on their respective sides. To make the use of these portable lights more certain and easy, they shall each be painted outside with the color of the light they respectively contain, and shall be provided with suitable screen.

(Feb. 8, 1895, ch. 64, § 1, 28 Stat. 646.)

CODIFICATION

Section was enacted as part of section 1 of act Feb. 8, 1895. Said section 1 enacted sections 241, 242, 251 to 262, 271, 272, and 281 to 295 of this title.

CROSS REFERENCES

Similar rules—
International rules for navigation at sea, see section 1066 of this title.
Navigation rules for harbors, rivers and inland water generally, see section 175 of this title.
Navigation rules for Red River of the North and rivers emptying into Gulf of Mexico and tributaries, see section 318 of this title.

§ 258. Lights of vessel at anchor (Rule 9)

A vessel under one hundred and fifty feet register length, when at anchor, shall carry forward, where it can best be seen, but at a height not exceeding twenty feet above the hull, a white light constructed so as to show a clear, uniform, and unbroken light visible all around the horizon at a distance of at least one mile: *Provided*, That the Secretary of Transportation may, after investigation, by rule, regulation, or order designate such areas as he may deem proper as "special anchorage areas"; such special anchorage areas my[1] from time to time be changed, or abolished, if after investigation the Secretary of Transportation shall deem such change or abolition in the interest of navigation: *Provided further*, That vessels not more than sixty-five feet in length, when at anchor,

[1]So in original. Probably should read "may".

in any such special anchorage area shall not be required to carry or exhibit the white light required by this section.

A vessel of one hundred and fifty feet or upward in register length, when at anchor, shall carry in the forward part of the vessel, two white lights at the same height of not less than twenty and not exceeding forty feet above the hull and not less than ten feet apart horizontally and athwartships, except that each need not be visible all around the horizon but so arranged that one or the other, or both, shall show a clear, uniform, and unbroken light and be visible from any angle of approach at a distance of at least one mile; and at or near the stern of the vessel two similar lights, similarly arranged and at such a height that they shall not be less than fifteen feet lower than the forward lights. In addition[1] the four anchor lights above specified, at least one white deck light shall be displayed in every interval of one hundred feet along the deck measuring from the forward lights, said deck lights to be not less than two feet above the deck and arranged, so far as intervening structures will permit, so as to be visible from any angle of approach.

(Feb. 8, 1895, ch. 64, § 1, 28 Stat. 647; May 17, 1928, ch. 600, 45 Stat. 592; Apr. 22, 1940, ch. 128, § 2, 54 Stat. 150; Oct. 15, 1966, Pub. L. 89-670, § 6(g)(1)(C), 80 Stat. 940.)

CODIFICATION

Section was enacted as part of section 1 of act Feb. 8, 1895. Said section 1 enacted sections 241, 242, 251 to 262, 271, 272, and 281 to 295 of this title.

AMENDMENTS

1940—Act Apr. 22, 1940, added provisos relating to designation and change or abolition of special anchorage areas and exempting certain vessels when anchored in such areas from displaying an anchor light.

1928—Act May 17, 1928, omitted reference to a lantern in first paragraph, and in second paragraph, substituted requirements for two white lights forward and at the stern arranged at specified heights and positions instead of only one white light forward and at the stern, and added requirement for arrangement of deck lights.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces", which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

TRANSFER OF FUNCTIONS

"Secretary of Transportation" was substituted for "Secretary of the Army" pursuant to section 6(g)(1)(C) of Pub. L. 89-670, which transferred all functions, powers, and duties of the Secretary of the Army and other offices and officers of the Department of the Army relating generally to water vessel anchorages under this section to the Secretary of Transportation. See section 1655 of Title 49, Transportation.

[1] So in original. Probably should read "In addition to".

CROSS REFERENCES

Establishment, regulation, and marking of anchorage grounds, see sections 471 and 472 of this title.

Similar rules—

International rules for navigation at sea, see section 1071 of this title.

Navigation rules for harbors, rivers and inland water generally, see section 180 of this title.

Navigation rules for Red River of the North and rivers emptying into Gulf of Mexico and tributaries, see section 322 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 49 section 1655.

§ 259. Lights of produce boats, canal boats, etc., navigating by hand or horsepower or by sail or by current, or at anchor (Rule 10)

Produce boats, canal boats, fishing boats, rafts, or other water craft navigating any bay, harbor, or river by hand power, horsepower, sail, or by the current of the river, or which shall be anchored or moored in or near the channel or fairway of any bay, harbor, or river, and not otherwise provided for in these rules, shall carry one or more good white lights, which shall be placed in such manner as shall be prescribed by the Commandant of the Coast Guard.

(Feb. 8, 1895, ch. 64, § 1, 28 Stat. 647; 1946 Reorg. Plan No. 3, §§ 101-104, eff. July 16, 1946, 11 F.R. 7875, 60 Stat. 1097.)

REFERENCES IN TEXT

These rules, referred to in text, mean rules 1 to 30 which were promulgated by section 1 of act Feb. 8, 1895, and are classified to sections 242, 251 to 262, 271, 272, and 281 to 295 of this title.

CODIFICATION

Section was enacted as part of section 1 of act Feb. 8, 1895. Said section 1 enacted sections 241, 242, 251 to 262, 271, 272, and 281 to 295 of this title.

TRANSFER OF FUNCTIONS

"Commandant of the Coast Guard" was substituted for "Board of Supervising Inspectors of Steam Vessels" on authority of Reorg. Plan No. 3 of 1946, set out in the Appendix to Title 5, Government Organization and Employees.

The Coast Guard was transferred to the Department of Transportation, and all functions, powers, and duties relating to the Coast Guard of the Secretary of the Treasury and of other officers and offices of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, § 6(b)(1), Oct. 15, 1966, 80 Stat. 938. Section 6(b)(2) of Pub. L. 89-670, however, provided that notwithstanding such transfer of functions, the Coast Guard shall operate as part of the Navy in time of war or when the President directs as provided in section 3 of Title 14, Coast Guard. See section 1655 of Title 49, Transportation.

For transfer of functions of other officers, employees, and agencies of the Department of the Treasury, with certain exceptions, to the Secretary of the Treasury with power to delegate, see Reorg. Plan No. 26 of 1950, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, 1281, set out in the Appendix to Title 5, Government Organization and Employees. Functions of the Coast Guard, and the Commandant of the Coast Guard, were excepted from transfer when the Coast Guard is operating as part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

CROSS REFERENCES

Similar rules—
Navigation rules for harbors, rivers and inland water generally, see section 178 of this title.
Navigation rules for Red River of the North and rivers emptying into Gulf of Mexico and tributaries, see sections 316 and 321 of this title.

§ 260. Lights of open boat (Rule 11)

Open boats shall not be obliged to carry the side lights required for other vessels, but shall, if they do not carry such lights, carry a lantern having a green slide on one side and a red slide on the other side; and on the approach of or to other vessels, such lantern shall be exhibited in sufficient time to prevent collision, and in such a manner that the green light shall not be seen on the port side, nor the red light on the starboard side. Open boats, when at anchor or stationary, shall exhibit a bright white light. They shall not, however, be prevented from using a flare-up in addition if considered expedient.

(Feb. 8, 1895, ch. 64, § 1, 28 Stat. 647.)

CODIFICATION

Section was enacted as part of section 1 of act Feb. 8, 1895. Said section 1 enacted sections 241, 242, 251 to 262, 271, 272, and 281 to 295 of this title.

CROSS REFERENCES

Similar rule, international rules for navigation at sea, see section 1066 of this title.

§ 261. Use of torch by sailing vessel on approach of steamer (Rule 12)

Sailing vessels shall at all times, on the approach of any steamer during the nighttime, show a lighted torch upon that point or quarter to which such steamer shall be approaching.

(Feb. 8, 1895, ch. 64, § 1, 28 Stat. 647.)

CODIFICATION

Section was enacted as part of section 1 of act Feb. 8, 1895. Said section 1 enacted sections 241, 242, 251 to 262, 271, 272, and 281 to 295 of this title.

CROSS REFERENCES

Similar rules—
International rules for navigation at sea, see section 1072 of this title.
Navigation rules for harbors, rivers and inland waters generally, see sections 179 and 181 of this title.

§ 262. Suspension of lights by vessel of war or Coast Guard vessels (Rule 13)

The exhibition of any light on board of a vessel of war or Coast Guard vessel of the United States may be suspended whenever, in the opinion of the Secretary of the Navy, the commander in chief of a squadron, or the commander of a vessel acting singly, the special character of the service may require it.

(Feb. 8, 1895, ch. 64, § 1, 28 Stat. 647.)

CODIFICATION

Section was enacted as part of section 1 of act Feb. 8, 1895. Said section 1 enacted sections 241, 242, 251 to 262, 271, 272, and 281 to 295 of this title.

"Coast Guard vessel" was substituted for "revenue cutter" on authority of act Jan. 28, 1915, ch. 20, § 1, 38 Stat. 800. That act was repealed by act Aug. 4, 1949, ch. 393, § 20, 63 Stat. 561, section 1 of which reestablished the Coast Guard by enacting Title 14, Coast Guard.

Similar provisions were contained in act June 7, 1897, ch. 4, § 1, 30 Stat. 102, and are classified to section 222 of this title.

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation, and all functions, powers, and duties relating to the Coast Guard of the Secretary of the Treasury and of other officers and offices of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, § 6(b)(1), Oct. 15, 1966, 80 Stat. 938. Section 6(b)(2) of Pub. L. 89-670, however, provided that notwithstanding such transfer of functions, the Coast Guard shall operate as part of the Navy in time of war or when the President directs as provided in section 3 of Title 14, Coast Guard. See section 1655 of Title 49, Transportation.

For transfer of functions of other officers, employees, and agencies of the Department of the Treasury, with certain exceptions, to the Secretary of the Treasury with power to delegate, see Reorg. Plan. No. 26 of 1950, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, 1281, set out in the Appendix to Title 5, Government Organization and Employees. Functions of the Coast Guard, and the Commandant of the Coast Guard, were excepted from transfer when the Coast Guard is operating as part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

CROSS REFERENCES

Exemption of certain Navy and Coast Guard vessels from navigation rules concerning lights, see sections 360, 360a, and 1052 of this title.
Similar rules—
Navigation rules for harbors, rivers and inland waters generally, see section 222 of this title.
Navigation rules for Red River of the North and rivers emptying into Gulf of Mexico and tributaries, see section 323 of this title.

SUBCHAPTER III—SOUND SIGNALS FOR FOG, ETC.; SPEED

CROSS REFERENCES

Sounding signal devices on motorboats, see sections 526c and 526d of Title 46, Shipping.

§ 271. Sound signals in fog, etc., of steam and sailing vessels under way, at anchor or aground (Rule 14)

A steam vessel shall be provided with an efficient whistle, sounded by steam or by some substitute for steam, placed before the funnel not less than eight feet from the deck, or in such other place as the Coast Guard shall determine, and of such character as to be heard in ordinary weather at a distance of at least two miles, and with an efficient bell, and it is made the duty of the United States Coast Guard when inspecting the same to require each steamer to be furnished with such whistle and bell. A sailing vessel shall be provided with an efficient fog horn and with an efficient bell.

Whenever there is thick weather by reason of fog, mist, falling snow, heavy rainstorms, or other causes, whether by day or by night, fog signals shall be used as follows:

(a) A steam vessel under way, excepting only a steam vessel with raft in tow, shall sound at intervals of not more than one minute three distinct blasts of her whistle.

(b) Every vessel in tow of another vessel shall, at intervals of one minute, sound four bells on a good and efficient and properly placed bell as follows: By striking the bell twice in quick succession, followed by a little longer interval, and

then again striking twice in quick succession (in the manner in which four bells is struck in indicating time).

(c) A steamer with a raft in tow shall sound at intervals of not more than one minute a screeching or Modoc whistle for from three to five seconds.

(d) A sailing vessel under way and not in tow shall sound at intervals of not more than one minute—

If on the starboard tack with wind forward of abeam, one blast of her fog horn;

If on the port tack with wind forward of the beam, two blasts of her fog horn;

If she has the wind abaft the beam on either side, three blasts of her fog horn.

(e) A vessel at anchor and a vessel aground in or near a channel or fairway shall at intervals of not more than two minutes ring the bell rapidly for from three to five seconds and, in addition, at intervals of not more than three minutes shall sound on the whistle or horn a signal of one short blast, two long blasts, and one short blast in quick succession.

(f) Vessels of less than ten tons registered tonnage, not being steam vessels, shall not be obliged to give the above-mentioned signals, but if they do not they shall make some other efficient sound signal at intervals of not more than one minute.

(g) Produce boats, fishing boats, rafts, or other water craft navigating by hand power or by the current of the river, or anchored or moored in or near the channel or fairway and not in any port, and not otherwise provided for in these rules, shall sound a fog horn or equivalent signal, at intervals of not more than one minute.

(Feb. 8, 1895, ch. 64, § 1, 28 Stat. 647; 1946 Reorg. Plan No. 3, §§ 101–104, eff. July 16, 1946, 11 F.R. 7875, 60 Stat. 1097; Mar. 18, 1948, ch. 138, § 4, 62 Stat. 82.)

REFERENCES IN TEXT

These rules, referred to in item (g), mean rules 1 to 30 which were promulgated by section 1 of act Feb. 8, 1895, and are classified to sections 242, 251 to 262, 271, 272, and 281 to 295 of this title.

CODIFICATION

Section was enacted as part of section 1 of act Feb. 8, 1895. Said section 1 enacted sections 241, 242, 251 to 262, 271, 272, and 281 to 295 of this title.

AMENDMENTS

1948—Subd. (e). Act Mar. 18, 1948, added provision requiring sounding of whistle or horn.

TRANSFER OF FUNCTIONS

References to local inspectors of steam vessels were changed to the Coast Guard on authority of Reorg. Plan No. 3 of 1946, §§ 101 to 104, set out in the Appendix to Title 5, Government Organization and Employees.

The Coast Guard was transferred to the Department of Transportation, and all functions, powers, and duties relating to the Coast Guard of the Secretary of the Treasury and of other officers and offices of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, § 6(b)(1), Oct. 15, 1966, 80 Stat. 938. Section 6(b)(2) of Pub. L. 89-670, however, provided that notwithstanding such transfer of functions, the Coast Guard shall operate as part of the Navy in time of war or when the President directs as provided in section 3 of Title 14, Coast Guard. See section 1655 of Title 49, Transportation.

For transfer of functions of other officers, employees, and agencies of the Department of the Treasury, with certain exceptions, to the Secretary of the Treasury with power to delegate, see Reorg. Plan No. 26 of 1950, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, 1281, set out in the Appendix to Title 5, Government Organization and Employees. Functions of the Coast Guard, and the Commandant of the Coast Guard, were excepted from transfer when the Coast Guard is operating as part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

CROSS REFERENCES

Similar rules—
International rules for navigation at sea, see section 1076 of this title.
Navigation rules for harbors, rivers and inland waters generally, see section 191 of this title.
Navigation rules for Red River of the North and rivers emptying into Gulf of Mexico and tributaries, see section 331 of this title.

§ 272. Speed in fog, etc. (Rule 15)

Every vessel shall, in thick weather, by reason of fog, mist, falling snow, heavy rain storms, or other causes, go at moderate speed. A steam vessel hearing, apparently not more than four points from right ahead, the fog signal of another vessel shall at once reduce her speed to bare steerageway, and navigate with caution until the vessels shall have passed each other.

(Feb. 8, 1895, ch. 64, § 1, 28 Stat. 648.)

CODIFICATION

Section was enacted as part of section 1 of act Feb. 8, 1895. Said section 1 enacted sections 241, 242, 251 to 262, 271, 272, and 281 to 295 of this title.

CROSS REFERENCES

Similar rules—
International rules for navigation at sea, see section 1077 of this title.
Navigation rules for harbors, rivers and inland waters generally, see section 192 of this title.
Navigation rules for Red River of the North and rivers emptying into Gulf of Mexico and tributaries, see section 341 of this title.

SUBCHAPTER IV—STEERING AND SAILING RULES

§ 281. Sailing vessels approaching one another (Rule 16)

When two sailing vessels are approaching one another so as to involve risk of collision one of them shall keep out of the way of the other, as follows, namely:

(a) A vessel which is running free shall keep out of the way of a vessel which is close-hauled.

(b) A vessel which is close-hauled on the port tack shall keep out of the way of a vessel which is close-hauled on the starboard tack.

(c) When both are running free, with the wind on different sides, the vessel which has the wind on the port side shall keep out of the way of the other.

(d) When they are running free, with the wind on the same side, the vessel which is to windward shall keep out of the way of the vessel which is to leeward.

(Feb. 8, 1895, ch. 64, § 1, 28 Stat. 648.)

CODIFICATION

Section was enacted as part of section 1 of act Feb. 8, 1895. Said section 1 enacted sections 241, 242, 251 to 262, 271, 272, and 281 to 295 of this title.

CROSS REFERENCES

Similar rules—
International rules for navigation at sea, see section 1079 of this title.
Navigation rules for harbors, rivers and inland waters generally, see section 202 of this title.
Navigation rules for Red River of the North and rivers emptying into Gulf of Mexico and tributaries, see section 342 of this title.

§ 282. Steam vessels meeting end on (Rule 17)

When two steam vessels are meeting end on, or nearly end on, so as to involve risk of collision each shall alter her course to starboard, so that each shall pass on the port side of the other.

(Feb. 8, 1895, ch. 64, § 1, 28 Stat. 648.)

CODIFICATION

Section was enacted as part of section 1 of act Feb. 8, 1895. Said section 1 enacted sections 241, 242, 251 to 262, 271, 272, and 281 to 295 of this title.

CROSS REFERENCES

Narrow channels and certain rivers, right of way, see section 289 of this title.
Similar rules—
International rules for navigation at sea, see section 1080 of this title.
Navigation rules for harbors, rivers and inland waters generally, see section 203 of this title.
Navigation rules for Red River of the North and rivers emptying into Gulf of Mexico and tributaries, see section 343 of this title.

§ 283. Steam vessels crossing (Rule 18)

When two steam vessels are crossing so as to involve risk of collision the vessel which has the other on her own starboard side shall keep out of the way of the other.

(Feb. 8, 1895, ch. 64, § 1, 28 Stat. 648.)

CODIFICATION

Section was enacted as part of section 1 of act Feb. 8, 1895. Said section 1 enacted sections 241, 242, 251 to 262, 271, 272, and 281 to 295 of this title.

CROSS REFERENCES

Similar rules—
International rules for navigation at sea, see section 1081 of this title.
Navigation rules for harbors, rivers and inland waters generally, see section 204 of this title.
Navigation rules for Red River of the North and rivers emptying into Gulf of Mexico and tributaries, see section 344 of this title.

§ 284. Steam and sailing vessels meeting (Rule 19)

When a steam vessel and a sailing vessel are proceeding in such directions as to involve risk of collision the steam vessel shall keep out of the way of the sailing vessel. This section shall not give to a sailing vessel the right to hamper, in a narrow channel, the safe passage of a steam vessel which can navigate only inside that channel.

(Feb. 8, 1895, ch. 64, § 1, 28 Stat. 648; Nov. 5, 1966, Pub. L. 89-764, § 3, 80 Stat. 1313.)

CODIFICATION

"This section" read in the original "this rule" meaning rule 19 which is set out as this section.

Section was enacted as part of section 1 of act Feb. 8, 1895. Said section 1 enacted sections 241, 242, 251 to 262, 271, 272, and 281 to 295 of this title.

AMENDMENTS

1966—Pub. L. 89-764 inserted sentence providing that this section shall not give to a sailing vessel the right to hamper, in a narrow channel, the safe passage of a steam vessel which can navigate only inside that channel.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-764 effective as of the ninetieth day after Nov. 5, 1966, see section 7 of Pub. L. 89-764, set out as an Effective Date of 1966 Amendment note under section 205 of this title.

CROSS REFERENCES

Similar rules—
International rules for navigation at sea, see section 1082 of this title.
Navigation rules for harbors, rivers and inland waters generally, see section 205 of this title.
Navigation rules for Red River of the North and rivers emptying into Gulf of Mexico and tributaries, see section 345 of this title.

§ 285. Vessel having right of way to keep course (Rule 20)

Where, by any of the rules herein prescribed, one of two vessels shall keep out of the way, the other shall keep her course and speed.

(Feb. 8, 1895, ch. 64, § 1, 28 Stat. 649.)

REFERENCES IN TEXT

Rules herein prescribed, referred to in text, mean rules 1 to 30 which were promulgated by section 1 of act Feb. 8, 1895, and are classified to sections 242, 251 to 262, 271, 272, and 281 to 295 of this title.

CODIFICATION

Section was enacted as part of section 1 of act Feb. 8, 1895. Said section 1 enacted sections 241, 242, 251 to 262, 271, 272, and 281 to 295 of this title.

CROSS REFERENCES

Similar rules—
International rules for navigation at sea, see section 1083 of this title.
Navigation rules for harbors, rivers and inland waters generally, see section 206 of this title.
Navigation rules for Red River of the North and rivers emptying into Gulf of Mexico and tributaries, see section 348 of this title.

§ 286. Duty of steam vessel to slacken speed (Rule 21)

Every steam vessel which is directed by these rules to keep out of the way of another vessel shall, on approaching her, if necessary, slacken her speed or stop or reverse.

(Feb. 8, 1895, ch. 64, § 1, 28 Stat. 649.)

REFERENCES IN TEXT

These rules, referred to in text, mean rules 1 to 30 which were promulgated by section 1 of act Feb. 8, 1895, and are classified to sections 242, 251 to 262, 271, 272, and 281 to 295 of this title.

CODIFICATION

Section was enacted as part of section 1 of act Feb. 8, 1895. Said section 1 enacted sections 241, 242, 251 to 262, 271, 272, and 281 to 295 of this title.

CROSS REFERENCES

Similar rules—
International rules for navigation at sea, see section 1085 of this title.
Navigation rules for harbors, rivers and inland waters generally, see section 208 of this title.
Navigation rules for Red River of the North and rivers emptying into Gulf of Mexico and tributaries, see section 346 of this title.

§ 287. Overtaking vessel to keep out of the way (Rule 22)

Notwithstanding anything contained in these rules every vessel overtaking any other shall keep out of the way of the overtaken vessel.

(Feb. 8, 1895, ch. 64, § 1, 28 Stat. 649.)

REFERENCES IN TEXT

These rules, referred to in text, mean rules 1 to 30 which were promulgated by section 1 of act Feb. 8, 1895, and are classified to sections 242, 251 to 262, 271, 272, and 281 to 295 of this title.

CODIFICATION

Section was enacted as part of section 1 of act Feb. 8, 1895. Said section 1 enacted sections 241, 242, 251 to 262, 271, 272, and 281 to 295 of this title.

CROSS REFERENCES

Similar rules—
International rules for navigation at sea, see section 1086 of this title.
Navigation rules for harbors, rivers and inland waters generally, see section 209 of this title.
Navigation rules for Red River of the North and rivers emptying into Gulf of Mexico and tributaries, see section 347 of this title.

§ 288. Whistle signals of steam vessels to indicate course (Rule 23)

In all weathers every steam vessel under way in taking any course authorized or required by these rules shall indicate that course by the following signals on her whistle, to be accompanied whenever required by corresponding alteration of her helm; and every steam vessel receiving a signal from another shall promptly respond with the same signal or, as provided in section 291 of this title:

One blast to mean, "I am directing my course to starboard."

Two blasts to mean, "I am directing my course to port." But the giving or answering[1] signals by a vessel required to keep her course shall not vary the duties and obligations of the respective vessels.

(Feb. 8, 1895, ch. 64, § 1, 28 Stat. 649.)

REFERENCES IN TEXT

These rules, referred to in text, mean rules 1 to 30 which were promulgated by section 1 of act Feb. 8, 1895, and are classified to sections 242, 251 to 262, 271, 272, and 281 to 295 of this title.

CODIFICATION

Section was enacted as part of section 1 of act Feb. 8, 1895. Said section 1 enacted sections 241, 242, 251 to 262, 271, 272, and 281 to 295 of this title.

CROSS REFERENCES

Similar rules—
International rules for navigation at sea, see section 1090 of this title.
Navigation rules for harbors, rivers and inland waters generally, see section 203 of this title.
Navigation rules for Red River of the North and rivers emptying into Gulf of Mexico and tributaries, see section 343 of this title.

§ 289. Steam vessels meeting in narrow channels having current and certain rivers; right-of-way (Rule 24)

In all narrow channels where there is a current, and in the rivers Saint Mary, Saint Clair, Detroit, Niagara, and Saint Lawrence, when two steamers are meeting, the descending steamer shall have the right-of-way, and shall, before the vessels shall have arrived within the distance of one-half mile of each other, give the signal necessary to indicate which side she elects to take.

In all narrow channels a steam vessel of less than sixty-five feet in length shall not hamper the safe passage of a vessel which can navigate only inside that channel.

(Feb. 8, 1895, ch. 64, § 1, 28 Stat. 649; Nov. 5, 1966, Pub. L. 89-764, § 4, 80 Stat. 1313.)

CODIFICATION

Section was enacted as part of section 1 of act Feb. 8, 1895. Said section 1 enacted sections 241, 242, 251 to 262, 271, 272, and 281 to 295 of this title.

AMENDMENTS

1966—Pub. L. 89-764 inserted sentence providing that in all narrow channels a steam vessel of less than sixty-five feet in length shall not hamper the safe passage of a vessel which can navigate only inside that channel.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-764 effective as of the ninetieth day after Nov. 5, 1966, see section 7 of Pub. L. 89-764, set out as an Effective Date of 1966 Amendment note under section 205 of this title.

§ 290. Steam vessels passing in narrow channels; slackening speed (Rule 25)

In all channels less than five hundred feet in width, no steam vessel shall pass another going in the same direction unless the steam vessel ahead be disabled or signify her willingness that the steam vessel astern shall pass, when the steam vessel astern may pass, subject, however, to the other rules applicable to such a situation. And when steam vessels proceeding in opposite directions are about to meet in such channels, both such vessels shall be slowed down to a moderate speed, according to the circumstances.

(Feb. 8, 1895, ch. 64, § 1, 28 Stat. 649.)

CODIFICATION

Section was enacted as part of section 1 of act Feb. 8, 1895. Said section 1 enacted sections 241, 242, 251 to 262, 271, 272, and 281 to 295 of this title.

§ 291. Dissent to or misunderstanding of signal given; duty to reduce speed (Rule 26)

If the pilot of a steam vessel to which a passing signal is sounded deems it unsafe to accept and assent to said signal, he shall not sound a cross signal; but in that case, and in every case where the pilot of one steamer fails to under-

[1] So in original. Probably should include the word "of".

stand the course or intention of an approaching steamer, whether from signals being given or answered erroneously, or from other causes, the pilot of such steamer so receiving the first passing signal, or the pilot so in doubt, shall sound several short and rapid blasts of the whistle; and if the vessels shall have approached within half a mile of each other both shall reduce their speed to bare steerageway, and, if necessary, stop and reverse.

(Feb. 8, 1895, ch. 64, § 1, 28 Stat. 649.)

CODIFICATION

Section was enacted as part of section 1 of act Feb. 8, 1895. Said section 1 enacted sections 241, 242, 251 to 262, 271, 272, and 281 to 295 of this title.

CROSS REFERENCES

Similar rules—
Navigation rules for harbors, rivers and inland waters generally, see section 203 of this title.
Navigation rules for Red River of the North and rivers emptying into Gulf of Mexico and tributaries, see section 349 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 288 of this title.

§ 292. Departure from rules to avert immediate danger (Rule 27)

In obeying and construing these rules due regard shall be had to all dangers of navigation and collision and to any special circumstances which may render a departure from the above rules necessary in order to avoid immediate danger.

(Feb. 8, 1895, ch. 64, § 1, 28 Stat. 649.)

REFERENCES IN TEXT

These rules, referred to in text, mean rules 1 to 30 which were promulgated by section 1 of act Feb. 8, 1895, and are classified to sections 242, 251 to 262, 271, 272, and 281 to 295 of this title.

The above rules, referred to in text, mean rules 1 to 26 which are set out as sections 242, 251 to 262, 271, 272, and 281 to 291 of this title.

CODIFICATION

Section was enacted as part of section 1 of act Feb. 8, 1895. Said section 1 enacted sections 241, 242, 251 to 262, 271, 272, and 281 to 295 of this title.

CROSS REFERENCES

Similar rules—
International rules for navigation at sea, see section 1089 of this title.
Navigation rules for harbors, rivers and inland waters generally, see section 212 of this title.
Navigation rules for Red River of the North and rivers emptying into Gulf of Mexico and tributaries, see section 350 of this title.

§ 293. Usual additional precautions required generally (Rule 28)

Nothing in these rules shall exonerate any vessel, or the owner or master or crew thereof, from the consequences of any neglect to carry lights or signals, or of any neglect to keep a proper lookout, or of a neglect of any precaution which may be required by the ordinary practice of seamen, or by the special circumstances of the case.

(Feb. 8, 1895, ch. 64, § 1, 28 Stat. 649.)

REFERENCES IN TEXT

These rules, referred to in text, mean rules 1 to 30 which were promulgated by section 1 of act Feb. 8, 1895, and are classified to sections 242, 251 to 262, 271, 272, and 281 to 295 of this title.

CODIFICATION

Section was enacted as part of section 1 of act Feb. 8, 1895. Said section 1 enacted sections 241, 242, 251 to 262, 271, 272, and 281 to 295 of this title.

CROSS REFERENCES

Similar rules—
International rules for navigation at sea, see section 1091 of this title.
Navigation rules for harbors, rivers and inland waters generally, see section 221 of this title.
Navigation rules for Red River of the North and rivers emptying into Gulf of Mexico and tributaries, see section 351 of this title.

SUBCHAPTER V—ORDERS

§ 294. Orders to helmsmen (Rule 29)

All orders to helmsmen shall be given as follows:

"Right Rudder" to mean "Direct the vessel's head to starboard."

"Left Rudder" to mean "Direct the vessel's head to port."

(Feb. 8, 1895, ch. 64, § 1, as added Aug. 21, 1935, ch. 595, § 3, 49 Stat. 669.)

CODIFICATION

Section was enacted as part of section 1 of act Feb. 8, 1895. Said section 1 enacted sections 241, 242, 251 to 262, 271, 272, and 281 to 295 of this title.

EFFECTIVE DATE

Section effective with respect to all ocean and coastwise vessels on Jan. 1, 1936, and with respect to all vessels on the Great Lakes, bays, sounds, harbors, rivers, and lakes other than the Great Lakes on Jan. 1, 1937, see section 5 of act Aug. 21, 1935, set out as an Effective Date of 1935 Amendment note under section 203 of this title.

SUBCHAPTER VI—VESSELS NOT UNDER WAY

§ 295. Day and night signals for vessels anchored, not under command, or aground (Rule 30)

(a) Vessel at anchor

Between sunrise and sunset every vessel over sixty-five feet in length when at anchor shall carry forward, where it can best be seen, one black ball not less than two feet in diameter.

(b) Vessel not under command

A vessel over sixty-five feet in length which is not under command shall carry where they can best be seen and, if a steam vessel, in lieu of the white light required by section 252(a) of this title, two red lights in a vertical line one over the other not less than three feet apart, and of such a character as to be visible all around the horizon at a distance of at least two miles. By day such vessel shall carry in a vertical line one over the other not less than three feet apart, where they can best be seen, two black balls, each two feet in diameter. Such vessel, when not making way through the water, shall not carry the side lights required by section 252(b) and (c) of this title, but when making way shall carry them.

(c) Vessel aground

A vessel aground over sixty-five feet in length shall carry by night the white light or lights prescribed for a vessel at anchor and in addition shall carry, where they can best be seen by approaching vessels, two red lights in a vertical line one over the other, not less than three feet apart, visible all around the horizon at a distance of at least two miles. By day such vessel shall carry in a vertical line one over the other not less than three feet apart, where they can best be seen, three black balls, each two feet in diameter.

(Feb. 8, 1895, ch. 64, § 1, as added Mar. 18, 1948, ch. 138, § 5, 62 Stat. 82.)

CODIFICATION

Section was enacted as part of section 1 of act Feb. 8, 1895. Said section 1 enacted sections 241, 242, 251 to 262, 271, 272, and 281 to 295 of this title.

CHAPTER 5—NAVIGATION RULES FOR RED RIVER OF THE NORTH AND RIVERS EMPTYING INTO GULF OF MEXICO AND TRIBUTARIES

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302. Definitions.
303. Penalty for violation by vessel.

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312. Lights of vessel towing alongside or pushing vessel or vessels.
313. Lights of vessel towing vessel or vessels astern.
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315. Lights of river steamers.
316. Additional lights; lights of steam vessels not otherwise provided for.
317. Lights of sailing vessels under way and vessels being towed; exceptions.
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319. Lights of overtaken vessels.
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321. Lights of motorboats.
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331. Manner of giving signals for vessels under way, in fog or bad weather, or at anchor.

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341. Rate of speed in fog or bad weather conditions.
341a. Ascertainment of risk of collision.
342. Sailing vessels approaching one another.
343. Steam vessels meeting end on; signals.
344. Steam vessels crossing; signals.
345. Steam and sailing vessels meeting.
346. Duty of steam vessels to slacken speed.
347. Overtaking vessels to keep out of way; signals.
348. Vessel having right of way to keep course.
348a. Steam vessel not to hamper safe passage of large vessel or vessel with tow.
349. Danger signals; responding signals; additional signals.
(a) Danger signals for approaching steam vessels.
(b) Responding signals for hidden steam vessels.
(c) Signals for steam vessels moving from dock or anchorage; additional signals.
350. Departure from rules to avoid collision.
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SUBCHAPTER V—ORDERS

352. Orders to helmsmen.

SUBCHAPTER VI—MISCELLANEOUS PROVISIONS

353. Establishment of special rules; publication; hearings.
354. Penalties for violation by pilot, engineer, mate, or master.
355. Penalty for violations by vessel.
356. Exemption of Navy and Coast Guard vessels from compliance with International Rules of the Road.

CROSS REFERENCES

Exemption of certain Navy and Coast Guard vessels from navigation rules concerning lights, see sections 143a, 360, and 360a of this title.

Lights and sound signal devices for motorboats, see sections 526b to 526d of Title 46, Shipping.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 360 of this title.

SUBCHAPTER I—PRELIMINARY

§ 301. Adoption of rules

The following regulations for preventing collisions shall be followed by all vessels upon the waters of the Mississippi River between its source and the Huey P. Long Bridge and all of the tributaries emptying thereinto and their tributaries, and that part of the Atchafalaya River above its junction with the Plaquemine-Morgan City alternate waterway, and the Red River of the North; and are declared special rules duly made by local authority.

(R.S. § 4233; Aug. 19, 1890, ch. 802, 26 Stat. 320; Feb. 8, 1895, ch. 64, 28 Stat. 645; Feb. 19, 1895, ch. 102, § 1, 28 Stat. 672; June 7, 1897, ch. 4, 30 Stat. 96; May 21, 1948, ch. 328, § 4, 62 Stat. 250; Aug. 8, 1953, ch. 386, § 2, 67 Stat. 497.)

CODIFICATION

Section was enacted as part of R.S. § 4233 which is set out as sections 301, 302, 311 to 323, 331, and 341 to 352 of this title.

R.S. § 4233 is from act Apr. 29, 1864, ch. 69, 13 Stat. 58.

The rules for preventing collisions prescribed by R.S. § 4233, as amended, form the basis of this chapter.

Those rules as enacted were not limited in application to the navigation of any waters. But they were superseded as to navigation on the high seas and in all coast waters of the United States, except such as were otherwise provided for, by the adoption of "Revised International Regulations" by act Mar. 3, 1885, ch. 354, 23 Stat. 438; and these regulations were superseded by the adoption of the subsequent regulations of act Aug. 19, 1890, formerly set out as section 61 et seq. of this title and now covered by section 1051 et seq. of this title.

The rules prescribed by R.S. § 4233 were further superseded, as to navigation on the Great Lakes and their connecting and tributary waters as far east as Montreal, by the rules applying to such navigation prescribed by act Feb. 8, 1895, (section 241 et seq. of this title).

The provisions of R.S. §§ 4233, 4412, and 4413 and regulations pursuant thereto were adopted as special rules for the navigation of harbors, rivers, and inland waters of the United States (except the Great Lakes and their connecting and tributary waters as far east as Montreal) by act Feb. 19, 1895. R.S. §§ 4412 and 4413 were classified to section 381 of Title 46, Shipping.

But thereafter the rules prescribed by R.S. § 4233, were further superseded as to navigation of all harbors, rivers, and inland waters except the Red River of the North and rivers emptying into the Gulf of Mexico and their tributaries, by the rules applying to all such waters other than the specific exceptions, of act June 7, 1897, (section 151 et seq. of this title).

The rules prescribed by R.S. § 4233, therefore, remain in force only as to the navigation of the Red River of the North and rivers emptying into the Gulf of Mexico and their tributaries.

This section is a modification of section 1 of act Feb. 19, 1895. Section 2 of that act is section 151 of this title. Section 3 of the act is the source of section 303 of this title. Section 4 of the act provided that the words "inland waters," as used in the act, should not be held to include the Great Lakes and their connecting and tributary waters as far east as Montreal, and that the act should not in any respect modify or affect act Feb. 8, 1895, (section 241 et seq. of this title). The application of the rules set forth in this chapter being now expressly limited to the Red River of the North and rivers emptying into the Gulf and their tributaries, section 4 becomes superfluous.

Act Feb. 19, 1895, adopted the provisions of R.S. 4233 as special rules.

Act Feb. 19, 1895, has also been cited as a credit to each of the rules set forth in this chapter.

AMENDMENTS

1953—Act Aug. 8, 1953, made section inapplicable to the Mobile River and its tributaries.

1948—Act May 21, 1948, made the necessary alteration in the territorial jurisdiction of the Western River Rules to conform to section 154 of this title.

EFFECTIVE DATE OF 1948 AMENDMENT

Section 6 of act May 21, 1948, provided that: "This Act [which enacted sections 353 to 356 of this title and amended sections 154, 157, 158, 159, 173, 301, 302, 311 to 323, 331, and 341 to 352 of this title] shall become effective January 1, 1949."

CROSS REFERENCES

Similar provisions—
International rules for navigation at sea, see section 1051 of this title.
Navigation rules for Great Lakes and their connecting and tributary waters, see section 241 of this title.
Navigation rules for harbors, rivers and inland waters generally, see section 154 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 353 of this title.

§ 302. Definitions (Rule 1)

In the following rules every steam vessel which is under sail and not under power is to be considered a sailing vessel, and every vessel under power, whether under sail or not, is to be considered a steam vessel.

The words "steam vessel" shall include any vessel propelled by machinery.

A vessel is "under way" within the meaning of these rules when she is not at anchor, or made fast to the shore, or aground.

The word "visible" in these rules, when applied to lights, shall mean visible on a dark night with a clear atmosphere.

The words "distinct blast" in these rules, when applied to whistle signals shall mean a clearly audible blast of any length.

(R.S. § 4233; Feb. 19, 1895, ch. 102, § 1, 28 Stat. 672; Mar. 3, 1905, ch. 1457, § 10, 33 Stat. 1032; May 21, 1948, ch. 328, § 4, 62 Stat. 250.)

REFERENCES IN TEXT

The following rules, referred to in text, mean rules 2 to 27 which were promulgated by R.S. § 4233 and which are set out as sections 311 to 323, 331, 341, and 342 to 352 of this title.

These rules, referred to in text, mean rules 1 to 27 which were promulgated by R.S. § 4233 and are classified to sections 302, 311 to 323, 331, 341, and 342 to 352 of this title.

CODIFICATION

Section was enacted as part of R.S. § 4233 which is set out as sections 301, 302, 311 to 323, 331, and 341 to 352 of this title.

R.S. § 4233 is from act Apr. 29, 1864, ch. 69, 13 Stat. 58.

This rule, derived from R.S. § 4233, was amended by act Mar. 3, 1905. The amendment consisted in the addition of the definition of steam vessel, so as to make the rule conform to the similar provisions of act Aug. 19, 1890, ch. 802, § 1, 26 Stat. 320 (section 62 of this title), act June 7, 1897, ch. 4, § 1, 30 Stat. 96 (section 155 of this title), and act Feb. 8, 1895, ch. 64, § 1, 28 Stat. 645 (section 242 of this title). Section 11 of the act Mar. 3, 1905, provided that it shall take effect July 1, 1905.

Act Feb. 19, 1895, adopted the provisions of R.S. § 4233 as special rules.

See also Codification note set out under section 301 of this title.

AMENDMENTS

1948—Act May 21, 1948, amended section generally.

EFFECTIVE DATE OF 1948 AMENDMENT

Amendment by act May 21, 1948, effective Jan. 1, 1949, see section 6 of act May 21, 1948, set out as an Effective Date of 1948 Amendment note under section 301 of this title.

CROSS REFERENCES

Similar rules—
International rules for navigation at sea, see section 1061 of this title.
Navigation rules for Great Lakes and their connecting and tributary waters, see section 242 of this title.
Navigation rules for harbors, rivers and inland waters generally, see section 155 of this title.

§ 303. Penalty for violation by vessel

Collectors or other chief officers of the customs shall require all sail vessels navigating the Red River of the North and rivers emptying into the Gulf of Mexico, and their tributaries to be furnished with proper signal lights.

Every such vessel that shall be navigated without complying with the Statutes of the United States, or the regulations that may be lawfully made thereunder, shall be liable to a penalty of $200, one-half to go to the informer; for which sum the vessel so navigated shall be liable, and may be seized and proceeded against

by way of libel in any district court of the United States having jurisdiction of the offense.

(Feb. 19, 1895, ch. 102, § 3, 28 Stat. 672.)

CODIFICATION

Section was not enacted as part of R.S. § 4233, which comprises this chapter.

Act Feb. 19, 1895, adopted the provisions of R.S. § 4233 as special rules.

As originally enacted section 3 of act Feb. 19, 1895, did not contain the words "navigating the Red River of the North and rivers emptying into the Gulf of Mexico, and their tributaries".

See also Codification note set out under section 301 of this title.

TRANSFER OF FUNCTIONS

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise in the Bureau of Customs of the Department of the Treasury to which appointments were required to be made by the President with the advice and consent of the Senate were ordered abolished with such offices to be terminated not later than Dec. 31, 1966, by Reorg. Plan No. 1 of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the offices eliminated were already vested in the Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to title 5.

CROSS REFERENCES

Certain functions relating to promulgation and enforcement of rules relating to lights transferred to Commandant of the Coast Guard, see note under section 1 of Title 46, Shipping.

Similar provisions—

Navigation rules for Great Lakes and their connecting and tributary waters, see section 244 of this title.

Navigation rules for harbors, rivers and inland waters generally, see section 159 of this title.

Penalty for violations by vessel, see also section 355 of this title.

SUBCHAPTER II—RULES CONCERNING LIGHTS

§ 311. Time for lights; prescribed lights exclusive (Rule 2)

The rules concerning lights shall be complied with in all weathers from sunset to sunrise, and during such time no other lights which may be mistaken for the prescribed lights, or impair their visibility, shall be exhibited.

(R.S. § 4233; Feb. 19, 1895, ch. 102, § 1, 28 Stat. 672; May 21, 1948, ch. 328, § 4, 62 Stat. 250.)

CODIFICATION

Section was enacted as part of R.S. § 4233 which is set out as sections 301, 302, 311 to 323, 331, and 341 to 352 of this title.

R.S. § 4233 is from act Apr. 29, 1864, ch. 69, 13 Stat. 58.

Act Feb. 19, 1895, adopted the provisions of R.S. § 4233 as special rules.

See also Codification note set out under section 301 of this title.

AMENDMENTS

1948—Act May 21, 1948, amended section generally.

EFFECTIVE DATE OF 1948 AMENDMENT

Amendment by act May 21, 1948, effective Jan. 1, 1949, see section 6 of act May 21, 1948, set out as an Effective Date of 1948 Amendment note under section 301 of this title.

CROSS REFERENCES

Similar rules—

International rules for navigation at sea, see section 1061 of this title.

Navigation rules for Great Lakes and their connecting and tributary waters, see section 251 of this title.

Navigation rules for harbors, rivers and inland waters generally, see section 171 of this title.

§ 312. Lights of vessel towing alongside or pushing vessel or vessels (Rule 3)

A steam vessel when towing another vessel or vessels alongside or by pushing ahead shall carry—

(a) On the starboard side a green light so constructed and fixed as to show the light from ahead and not more than half a point on the port bow to two points abaft the beam on the starboard side, and of such a character as to be visible at a distance of at least three miles.

(b) On the port side a red light so constructed and fixed as to show the light from ahead and not more than half a point on the starboard bow, to two points abaft the beam on the port side, and of such a character as to be visible at a distance of at least three miles.

(c) The said green and red side lights shall be fitted with inboard screens painted black and projecting at least three feet forward from the light, so as to prevent these lights from being seen more than half a point across the bow.

(d) At or near the stern, where they can best be seen, two amber lights in a vertical line, one over the other, not less than three feet apart, of such a character as to be visible from aft for a distance of at least two miles, and so screened as not to be visible forward of the beam.

(R.S. § 4233; Feb. 19, 1895, ch. 102, § 1, 28 Stat. 672; May 21, 1948, ch. 328, § 4, 62 Stat. 250; Aug. 14, 1958, Pub. L. 85-635, § 3, 72 Stat. 590.)

CODIFICATION

Section was enacted as part of R.S. § 4233 which is set out as sections 301, 302, 311 to 323, 331, and 341 to 352 of this title.

R.S. § 4233 is from act Apr. 29, 1864, ch. 69, 13 Stat. 58.

Act Feb. 19, 1895, adopted the provisions of R.S. § 4233 as special rules.

See also Codification note set out under section 301 of this title.

AMENDMENTS

1958—Subsec. (d). Pub. L. 85-635 substituted "two amber lights" for "two red lights".

1948—Act May 21, 1948 amended section generally.

EFFECTIVE DATE OF 1948 AMENDMENT

Amendment by act May 21, 1948, effective Jan. 1, 1949, see section 6 of act May 21, 1948, set out as an Effective Date of 1948 Amendment note under section 301 of this title.

CROSS REFERENCES

Similar rules—

International rules for navigation at sea, see section 1063 of this title.

Navigation rules for Great Lakes and their connecting and tributary waters, see section 252 of this title.

Navigation rules for harbors, rivers and inland waters generally, see section 172 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 313, 316, 317 of this title.

§ 313. Lights of vessel towing vessel or vessels astern (Rule 4)

A steam vessel when towing another vessel or vessels on a hawser astern shall carry, in addition to the side lights described in section 312(a), (b), and (c) of this title and at a greater height than those lights, in the forward half of the vessel, two bright white lights in a vertical line, one over the other, at least three feet apart. Each of these lights shall be so constructed as to show an unbroken light over an arc of twenty points of the compass, so fixed as to throw the light ten points on each side of the vessel, namely, from right ahead to two points abaft the beam on either side and of such a character as to be visible at a distance of at least three miles.

(R.S. § 4233; Feb. 19, 1895, ch. 102, § 1, 28 Stat. 672; May 21, 1948, ch. 328, § 4, 62 Stat. 251.)

CODIFICATION

Section was enacted as part of R.S. § 4233 which is set out as sections 301, 302, 311 to 323, 331, and 341 to 352 of this title.

R.S. § 4233 is from act Apr. 29, 1864, ch. 69, 13 Stat. 58.

Act Feb. 19, 1895, adopted the provisions of R.S. § 4233 as special rules.

See also Codification note set out under section 301 of this title.

AMENDMENTS

1948—Act May 21, 1948, amended section generally.

EFFECTIVE DATE OF 1948 AMENDMENT

Amendment by act May 21, 1948, effective Jan. 1, 1949, see section 6 of act May 21, 1948, set out as an Effective Date of 1948 Amendment note under section 301 of this title.

CROSS REFERENCES

Similar rules—
International rules for navigation at sea, see section 1063 of this title.
Navigation rules for Great Lakes and their connecting and tributary waters, see sections 253 and 254 of this title.
Navigation rules for harbors, rivers and inland waters generally, see section 173 of this title.

§ 314. Lights of seagoing steam vessels under way (Rule 5)

A seagoing steam vessel under way shall carry lights as required by section 72 of this title.

(R.S. § 4233; Feb. 19, 1895, ch. 102, § 1, 28 Stat. 672; May 21, 1948, ch. 328, § 4, 62 Stat. 251.)

REFERENCES IN TEXT

Section 72 of this title, referred to in text, was article 2 of the International Rules, which was repealed by act Oct. 11, 1951, ch. 495, § 5, 65 Stat. 407, eff. Jan. 1, 1954, and is now covered by section 1062 of this title.

CODIFICATION

Section was enacted as part of R.S. § 4233 which is set out as sections 301, 302, 311 to 323, 331, and 341 to 352 of this title.

R.S. § 4233 is from act Apr. 29, 1864, ch. 69, 13 Stat. 58.

Act Feb. 19, 1895, adopted the provisions of R.S. § 4233 as special rules.

See also Codification note set out under section 301 of this title.

AMENDMENTS

1948—Act May 21, 1948, amended section generally.

EFFECTIVE DATE OF 1948 AMENDMENT

Amendment by act May 21, 1948, effective Jan. 1, 1949, see section 6 of act May 21, 1948, set out as an Effective Date of 1948 Amendment note under section 301 of this title.

§ 315. Lights of river steamers (Rule 6)

A river steamer, by which is meant a river-type steam vessel with two smokestacks in an athwartship line, may carry, in lieu of the lights prescribed by section 316(a) of this title, the following lights, namely: One red light on the outboard side of the port smokestack and one green light on the outboard side of the starboard smokestack. Such lights shall show forward, aft, and abeam on their respective sides.

(R.S. § 4233; Feb. 19, 1895, ch. 102, § 1, 28 Stat. 672; May 21, 1948, ch. 328, § 4, 62 Stat. 251.)

CODIFICATION

Section was enacted as part of R.S. § 4233 which is set out as sections 301, 302, 311 to 323, 331, and 341 to 352 of this title.

R.S. § 4233 is from act Apr. 29, 1864, ch. 69, 13 Stat. 58.

Act Feb. 19, 1895, adopted the provisions of R.S. § 4233 as special rules.

See also Codification note set out under section 301 of this title.

AMENDMENTS

1948—Act May 21, 1948, amended section generally.

EFFECTIVE DATE OF 1948 AMENDMENT

Amendment by act May 21, 1948, effective Jan. 1, 1949, see section 6 of act May 21, 1948, set out as an Effective Date of 1948 Amendment note under section 301 of this title.

CROSS REFERENCES

Similar rules—
International rules for navigation at sea, see section 1062 of this title.
Navigation rules for Great Lakes and their connecting and tributary waters, see section 252 of this title.
Navigation rules for harbors, rivers and inland waters generally, see section 172 of this title.

§ 316. Additional lights; lights of steam vessels not otherwise provided for (Rule 7)

(a) A steam vessel underway, except as otherwise provided in these rules, shall carry, in addition to side lights as described in section 312(a), (b), and (c) of this title, a central range of two white lights, the after light being carried at an elevation higher than the light at the head of the vessel. The headlight shall be so constructed as to show an unbroken light through twenty points of the compass, namely, from right ahead to two points abaft the beam on either side of the vessel, and the after light so as to show all around the horizon.

(b) The lights for barges, canal boats, scows, and other vessels of nondescript type, when in tow of steam vessels, and for ferryboats, shall be as prescribed by the Commandant, United States Coast Guard.

(R.S. § 4233; Mar. 3, 1893, ch. 202, 27 Stat. 557; Feb. 19, 1895, ch. 102, § 1, 28 Stat. 672; 1946 Reorg. Plan No. 3, §§ 101-104, eff. July 16, 1946, 11 F.R. 7875, 60 Stat. 1097; May 21, 1948, ch. 328, § 4, 62 Stat. 251.)

REFERENCES IN TEXT

These rules, referred to in subsec. (a), mean rules 1 to 27 which were promulgated by R.S. § 4233 and are classified to sections 302, 311 to 323, 331, 341, and 342 to 352 of this title.

CODIFICATION

Section was enacted as part of R.S. § 4233 which is set out as sections 301, 302, 311 to 323, 331, and 341 to 352 of this title.

R.S. § 4233 is from act Apr. 29, 1864, ch. 69, 13 Stat. 58.

This rule, derived from R.S. § 4233, was amended by act Mar. 3, 1893, by inserting after the words "ferry-boats," in the last sentence, a comma, and the words "barges and canal boats when in tow of steam vessels".

Act Feb. 19, 1895, adopted the provisions of R.S. § 4233 as special rules.

See also Codification note set out under section 301 of this title.

AMENDMENTS

1948—Act May 21, 1948, amended section generally.

EFFECTIVE DATE OF 1948 AMENDMENT

Amendment by act May 21, 1948, effective Jan. 1, 1949, see section 6 of act May 21, 1948, set out as an Effective Date of 1948 Amendment note under section 301 of this title.

TRANSFER OF FUNCTIONS

"Commandant of the Coast Guard" was substituted for "board of supervising inspectors of steam vessels" on authority of Reorg. Plan No. 3 of 1946, set out in the Appendix to Title 5, Government Organization and Employees.

The Coast Guard was transferred to the Department of Transportation, and all functions, powers, and duties relating to the Coast Guard of the Secretary of the Treasury and of other officers and offices of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, § 6(b)(1), Oct. 15, 1966, 80 Stat. 938. Section 6(b)(2) of Pub. L. 89-670, however, provided that notwithstanding such transfer of functions, the Coast Guard shall operate as part of the Navy in time of war or when the President directs as provided in section 3 of Title 14, Coast Guard. See section 1655 of Title 49, Transportation.

For transfer of functions of other officers, employees, and agencies of the Department of the Treasury, with certain exceptions, to the Secretary of the Treasury with power to delegate, see Reorg. Plan No. 26 of 1950, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, 1281, set out in the Appendix to Title 5, Government Organization and Employees. Functions of the Coast Guard, and the Commandant of the Coast Guard, were excepted from transfer when the Coast Guard is operating as part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

CROSS REFERENCES

Similar rules—
Navigation rules for Great Lakes and their connecting and tributary waters, see section 256 of this title.
Navigation rules for harbors, rivers and inland waters generally, see section 178 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 315 of this title.

§ 317. Lights of sailing vessels under way and vessels being towed; exceptions (Rule 8)

A sailing vessel under way, and any vessel being towed except barges, canal boats, scows, and other vessels of nondescript type when in tow of steam vessels, shall carry screened side lights as prescribed by section 312(a), (b), and (c) of this title, for a steam vessel, and a stern light as prescribed by section 319 of this title.

(R.S. § 4233; Feb. 19, 1895, ch. 102, § 1, 28 Stat. 672; May 21, 1948, ch. 328, § 4, 62 Stat. 251.)

CODIFICATION

Section was enacted as part of R.S. § 4233 which is set out as sections 301, 302, 311 to 323, 331, and 341 to 352 of this title.

R.S. § 4233 is from act Apr. 29, 1864, ch. 69, 13 Stat. 58.

Act Feb. 19, 1895, adopted the provisions of R.S. § 4233 as special rules.

See also Codification note set out under section 301 of this title.

AMENDMENTS

1948—Act May 21, 1948, amended section generally.

EFFECTIVE DATE OF 1948 AMENDMENT

Amendment by act May 21, 1948, effective Jan. 1, 1949, see section 6 of act May 21, 1948, set out as an Effective Date of 1948 Amendment note under section 301 of this title.

CROSS REFERENCES

Similar rules—
International rules for navigation at sea, see section 1065 of this title.
Navigation rules for Great Lakes and their connecting and tributary waters, see section 255 of this title.
Navigation rules for harbors, rivers and inland waters generally, see section 174 of this title.

§ 318. Lights of small vessels in bad weather (Rule 9)

Whenever, as in the case of small vessels during bad weather, the green and red lights cannot be fixed, these lights shall be kept on deck, on their respective sides of the vessel, ready for instant exhibition, and shall, on the approach of or to other vessels, be exhibited on their respective sides in sufficient time to prevent collision, in such manner as to make them most visible, and so that the green light shall not be seen on the port side, nor the red light on the starboard side. To make the use of these portable lights more certain and easy, they shall each be painted outside with the color of the light they respectively contain, and shall be provided with suitable screens.

(R.S. § 4233; Feb. 19, 1895, ch. 102, § 1, 28 Stat. 672; May 21, 1948, ch. 328, § 4, 62 Stat. 251.)

CODIFICATION

Section was enacted as part of R.S. § 4233 which is set out as sections 301, 302, 311 to 323, 331, and 341 to 352 of this title.

R.S. § 4233 is from act Apr. 29, 1864, ch. 69, 13 Stat. 58.

Act Feb. 19, 1895, adopted the provisions of R.S. § 4233 as special rules.

See also Codification note set out under section 301 of this title.

AMENDMENTS

1948—Act May 21, 1948, amended section generally.

EFFECTIVE DATE OF 1948 AMENDMENT

Amendment by act May 21, 1948, effective Jan. 1, 1949, see section 6 of act May 21, 1948, set out as an Effective Date of 1948 Amendment note under section 301 of this title.

CROSS REFERENCES

Similar rules—
International rules for navigation at sea, see section 1066 of this title.
Navigation rules for Great Lakes and their connecting and tributary waters, see section 257 of this title.
Navigation rules for harbors, rivers and inland waters generally, see section 175 of this title.

§ 319. Lights of overtaken vessels (Rule 10)

(a) A vessel when under way, if not otherwise required by these rules to carry one or more lights visible from aft, shall carry at her stern a white light, so constructed that it shall show an unbroken light over an arc of the horizon of twelve points of the compass, so fixed as to show the light six points from right aft on each side of the vessel, and of such a character as to be visible at a distance of at least two miles. Such light shall be carried as nearly as practicable on the same level as the side lights.

(b) In a small vessel, if it is not possible on account of bad weather or other sufficient cause for this light to be fixed, an electric torch or a lighted lantern shall be kept at hand ready for use and shall, on the approach of an overtaking vessel, be shown in sufficient time to prevent collision.

(R.S. § 4233; Feb. 19, 1895, ch. 102, § 1, 28 Stat. 672; Apr. 22, 1940, ch. 128, § 3, 54 Stat. 151; May 21, 1948, ch. 328, § 4, 62 Stat. 252; Aug. 14, 1958, Pub. L. 85-635, § 4, 72 Stat. 591.)

REFERENCES IN TEXT

These rules, referred to in subsec. (a), mean rules 1 to 27 which were promulgated by R.S. § 4233 and are classified to sections 302, 311 to 323, 331, 341, and 342 to 352 of this title.

CODIFICATION

Section was enacted as part of R.S. § 4233 which is set out as sections 301, 302, 311 to 323, 331, and 341 to 352 of this title.

R.S. § 4233 is from act Apr. 29, 1864, ch. 69, 13 Stat. 58.

Act Feb. 19, 1895, adopted the provisions of R.S. § 4233 as special rules.

See also Codification note set out under section 301 of this title.

AMENDMENTS

1958—Pub. L. 85-635 substituted provisions requiring all vessels under way, if not otherwise required to carry one or more lights visible from aft, to carry at their stern a fixed white light, for provisions which required vessels being overtaken by another to show from their stern a white light or a flare-up light, and inserted provisions permitting small vessels, in those circumstances where they cannot have a fixed light, to use an electric torch or lighted lantern.

1948—Act May 21, 1948, amended section generally.

1940—Act Apr. 22, 1940, added provisos relating to designation and use of special anchorage areas.

EFFECTIVE DATE OF 1948 AMENDMENT

Amendment by act May 21, 1948, effective Jan. 1, 1949, see section 6 of act May 21, 1948, set out as an Effective Date of 1948 Amendment note under section 301 of this title.

CROSS REFERENCES

Similar rules—
International rules for navigation at sea, see section 1070 of this title.
Navigation rules for harbors, rivers and inland waters generally, see section 179 of this title.

§ 320. Lights of sailing and steam pilot vessels (Rule 11)

(a) Sailing pilot vessels on pilotage duty not at anchor

Sailing pilot vessels, when engaged on their station on pilotage duty, and not at anchor, shall not show the lights required for other vessels, but shall carry a white light at the masthead, visible all around the horizon, at a distance of at least three miles, and shall also exhibit a flare-up light or flare-up lights at short intervals, which shall never exceed ten minutes.

On the near approach of or to other vessels they shall have their side lights lighted, ready for use, and shall flash or show them at short intervals to indicate the direction in which they are heading, but the green light shall not be shown on the port side, nor the red light on the starboard side.

A sailing pilot vessel of such a class as to be obliged to go alongside of a vessel to put a pilot on board may show the white light instead of carrying it at the masthead, and may, instead of the side lights above mentioned, have at hand, ready for use, a lantern with a green glass on the one side and a red glass on the other, to be used as prescribed above.

(b) Steam pilot vessels on pilotage duty not at anchor

A steam pilot vessel when engaged on her station on pilotage duty and not at anchor shall, in addition to the lights and flares required for sailing pilot vessels, carry, at a distance of eight feet below her white masthead lights, a red light, visible all around the horizon at a distance of at least three miles, and also the side lights required to be carried by vessels when under way.

(c) All pilot vessels on pilotage duty at anchor; off duty

All pilot vessels, when engaged on their stations on pilotage duty and at anchor, shall carry the lights and show the flares prescribed above, except that the side lights shall not be shown.

When not engaged on their stations on pilotage duty they shall carry the same lights as other vessels of their class and tonnage.

(R.S. § 4233; Feb. 19, 1895, ch. 102, § 1, 28 Stat. 672; Mar. 3, 1897, ch. 389, § 5, 29 Stat. 689; May 21, 1948, ch. 328, § 4, 62 Stat. 252.)

CODIFICATION

Section was enacted as part of R.S. § 4233 which is set out as sections 301, 302, 311 to 323, 331, and 341 to 352 of this title.

R.S. § 4233 is from act Apr. 29, 1864, ch. 69, 13 Stat. 58.

This rule, derived from R.S. § 4233, was amended by act Mar. 3, 1897, by adding, at the end of the rule as originally enacted, the provision as to lights for steam pilot boats.

Act Feb. 19, 1895, adopted the provisions of R.S. § 4233 as special rules.

See also Codification note set out under section 301 of this title.

AMENDMENTS

1948—Act May 21, 1948, amended section generally.

EFFECTIVE DATE OF 1948 AMENDMENT

Amendment by act May 21, 1948, effective Jan. 1, 1949, see section 6 of act May 21, 1948, set out as an Effective Date of 1948 Amendment note under section 301 of this title.

CROSS REFERENCES

Similar rules—
International rules for navigation at sea, see section 1068 of this title.
Navigation rules for harbors, rivers and inland waters generally, see section 177 of this title.

§ 321. Lights of motorboats (Rule 12)

Motorboats, when not engaged in towing, shall be lighted as provided by the Motorboat Act of April 25, 1940, as amended [46 U.S.C. 526 et seq.]. When towing, they shall be subject to the same provisions for lighting as other steam vessels towing.

(R.S. § 4233; Feb. 19, 1895, ch. 102, § 1, 28 Stat. 672; May 21, 1948, ch. 328, § 4, 62 Stat. 252.)

REFERENCES IN TEXT

The Motorboat Act of April 25, 1940, referred to in text, is act Apr. 25, 1940, ch. 155, 54 Stat. 163, as amended, which is classified generally to subchapter II (§ 526 et seq.) of chapter 16 of Title 46, Shipping. For complete classification of this Act to the Code, see Tables volume.

CODIFICATION

Section was enacted as part of R.S. § 4233 which is set out as sections 301, 302, 311 to 323, 331, and 341 to 352 of this title.

R.S. § 4233 is from act Apr. 29, 1864, ch. 69, 13 Stat. 58.

Act Feb. 19, 1895, adopted the provisions of R.S. § 4233 as special rules.

See also Codification note set out under section 301 of this title.

AMENDMENTS

1948—Act May 21, 1948, amended section generally.

EFFECTIVE DATE OF 1948 AMENDMENT

Amendment by act May 21, 1948, effective Jan. 1, 1949, see section 6 of act May 21, 1948, set out as an Effective Date of 1948 Amendment note under section 301 of this title.

§ 322. Lights of vessels at anchor (Rule 13)

(a) Vessel under one hundred and fifty feet in length

Except as provided in subsection (c) of this section, a vessel under one hundred and fifty feet in length, when at anchor, shall carry forward, where it can best be seen, a white light in a lantern so constructed as to show a clear, uniform, and unbroken light visible all around the horizon at a distance of at least two miles.

(b) Vessel of one hundred and fifty feet or upward in length

Except as provided in subsection (c) of this section, a vessel of one hundred and fifty feet or upward in length, when at anchor, shall carry in the forward part of the vessel, at a height of not less than twenty feet above the hull, one such light, and at or near the stern of the vessel, at such a height that it shall be not less than fifteen feet lower than the forward light, another such light.

(c) Special anchorage areas

The Secretary of Transportation may, after investigation, by rule, regulation, or order, designate such areas as he may deem proper as "special anchorage areas"; such special anchorage areas may from time to time be changed, or abolished, if after investigation the Secretary of Transportation shall deem such change or abolition in the interests of navigation. When anchored within such an area—

(1) a vessel of not more than sixty-five feet in length shall not be required to carry or exhibit the white light required by this section;

(2) a barge, canal boat, scow, or other nondescript craft of one hundred and fifty feet or upward in length may carry and exhibit the single white light prescribed by subsection (a) of this section in lieu of the two white lights prescribed by subsection (b) of this section; and

(3) where two or more barges, canal boats, scows, or other nondescript craft are tied together and anchored as a unit, the anchor light prescribed by this section need be displayed only on the vessel having its anchor down.

(R.S. § 4233; Feb. 19, 1895, ch. 102, § 1, 28 Stat. 672; May 21, 1948, ch. 328, § 4, 62 Stat. 252; Aug. 5, 1963, Pub. L. 88-84, § 3, 77 Stat. 116; Oct. 15, 1966, Pub. L. 89-670, § 6(g)(1)(D), 80 Stat. 941.)

CODIFICATION

Section was enacted as part of R.S. § 4233 which is set out as sections 301, 302, 311 to 323, 331, and 341 to 352 of this title.

R.S. § 4233 is from act Apr. 29, 1864, ch. 69, 13 Stat. 58.

Act Feb. 19, 1895, adopted the provisions of R.S. § 4233 as special rules.

See also Codification note set out under section 301 of this title.

AMENDMENTS

1963—Subsec. (a). Pub. L. 88-84 added the introductory phrase and eliminated "and not moored to the bank or wharf," following "at anchor," and the first and second provisos authorizing the designation of special anchorage areas and exempting from the light requirement vessels sixty-five feet or less in length and anchored in such special areas. Such provisos were incorporated in the introductory par. and clause (1) of subsec. (c) of this section, respectively.

Subsec. (b). Pub. L. 88-84 added the introductory phrase, required the forward light to be carried at a height of not less than twenty feet above the hull and eliminated "and not moored to the bank or a wharf," following "at anchor,".

Subsec. (c). Pub. L. 88-84 redesignated the first and second provisos of former subsec. (a) as the introductory par. and clause (1), respectively, and added clauses (2) and (3).

1948—Act May 21, 1948, amended section generally.

EFFECTIVE DATE OF 1948 AMENDMENT

Amendment by act May 21, 1948, effective Jan. 1, 1949, see section 6 of act May 21, 1948, set out as an Effective Date of 1948 Amendment note under section 301 of this title.

TRANSFER OF FUNCTIONS

Secretary of Transportation was substituted for Secretary of the Army pursuant to section 6(g)(1)(D) of Pub. L. 89-670 which, transferred all functions, powers, and duties of the Secretary of the Army and other offices and officers of the Department of the Army relating generally to water vessel anchorages

under this section to the Secretary of Transportation. See section 1655 of Title 49, Transportation.

CROSS REFERENCES

Establishment, regulation, and marking of anchorage grounds, see sections 471 and 472 of this title.
Similar rules—
International rules for navigation at sea, see section 1071 of this title.
Navigation rules for Great Lakes and their connecting and tributary waters, see section 258 of this title.
Navigation rules for harbors, rivers and inland waters generally, see section 180 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 331 of this title; title 49 section 1655.

§ 323. Lights of warships and Coast Guard cutters; suspension of exhibition (Rule 14)

The exhibition of any light on board of a vessel of war of the United States or a Coast Guard cutter may be suspended whenever, in the opinion of the Secretary of the Navy, the commander in chief of a squadron, or the commander of a vessel acting singly, the special character of the service may require it.

(R.S. § 4233; Feb. 19, 1895, ch. 102, § 1, 28 Stat. 672; Mar. 3, 1897, ch. 389, § 12, 29 Stat. 690; May 21, 1948, ch. 328, § 4, 62 Stat. 253.)

CODIFICATION

Section was enacted as part of R.S. § 4233 which is set out as sections 301, 302, 311 to 323, 331, and 341 to 352 of this title.

R.S. § 4233 is from act Apr. 29, 1864, ch. 69, 13 Stat. 58.

This rule, derived from R.S. § 4233, was amended by act Mar. 3, 1897, by adding to the rule as originally enacted the provision for lights on revenue cutters.

Act Feb. 19, 1895, adopted the provisions of R.S. § 4233 as special rules.

See also Codification note set out under section 301 of this title.

AMENDMENTS

1948—Act May 21, 1948, amended section generally.

EFFECTIVE DATE OF 1948 AMENDMENT

Amendment by act May 21, 1948, effective Jan. 1, 1949, see section 6 of act May 21, 1948, set out as an Effective Date of 1948 Amendment note under section 301 of this title.

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation, and all functions, powers, and duties relating to the Coast Guard of the Secretary of the Treasury and of other officers and offices of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, § 6(b)(1), Oct. 15, 1966, 80 Stat. 938. Section 6(b)(2) of Pub. L. 89-670, however, provided that notwithstanding such transfer of functions, the Coast Guard shall operate as part of the Navy in time of war or when the President directs as provided in section 3 of Title 14, Coast Guard. See section 1655 of Title 49, Transportation.

For transfer of functions of other officers, employees, and agencies of the Department of the Treasury, with certain exceptions, to the Secretary of the Treasury with power to delegate, see Reorg. Plan No. 26 of 1950, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, 1281, set out in the Appendix to Title 5, Government Organization and Employees. Functions of the Coast Guard, and the Commandant of the Coast Guard, were excepted from transfer when the Coast Guard is operating as part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

CROSS REFERENCES

Exemption of certain Navy and Coast Guard vessels from navigation rules concerning lights, see sections 360, 360a, and 1052 of this title.
Similar rules—
Navigation rules for Great Lakes and their connecting and tributary waters, see section 262 of this title.
Navigation rules for harbors, rivers and inland waters generally, see section 222 of this title.

SUBCHAPTER III—SOUND SIGNALS FOR FOG, ETC.

§ 331. Manner of giving signals for vessels under way, in fog or bad weather, or at anchor (Rule 15)

All signals prescribed by this section for vessels under way shall be given—

By "steam vessels" on the whistle or siren.

By sailing vessels and "vessels towed" on the foghorn.

A steam vessel shall be provided with an efficient whistle or siren, sounded by steam or by some substitute for steam, so placed that the sound may not be intercepted by any obstruction; also with an efficient bell. A sailing vessel of twenty gross tons or upward shall be provided with a similar bell.

In fog, mist, falling snow, heavy rainstorms, or any other condition similarly restricting visibility, whether by day or night, the signals described by this section shall be used as follows, namely:

(a) A steam vessel under way and towing another vessel or vessels shall sound, at intervals of not more than one minute, three distinct blasts of the whistle, of approximately equal length.

(b) A steam vessel under way without a tow shall sound, at intervals of not more than one minute, three blasts of the whistle, the first two blasts to be approximately of equal length, the last blast to be longer.

(c) A steam vessel, with or without a tow, lying to, by which is meant holding her position near or against the bank by using her engines, or temporarily moored to the bank, when a fog signal or other sound is heard indicating the approach of another vessel, shall, if lying to on the right bank, give one tap of the bell to indicate her presence, and if lying to on the left bank, two taps of the bell, at intervals of not more than one minute, such signals to continue until the approaching steam vessel has passed. Right and left bank is understood as facing downstream or with the flow of the current.

(d) A vessel when at anchor shall, at intervals of not more than one minute, ring the bell rapidly for about five seconds, except that the following vessels shall not be required to sound this signal when anchored in a special anchorage area established pursuant to section 322(c) of this title:

(1) a vessel of not more than sixty-feet in length; and

(2) a barge, canal boat, scow or other nondescript craft.

(R.S. § 4233; Feb. 19, 1895, ch. 102, § 1, 28 Stat. 672; Mar. 3, 1897, ch. 389, § 12, 29 Stat. 690; May

21, 1948, ch. 328, § 4, 62 Stat. 253; Aug. 5, 1963, Pub. L. 88-84, § 4, 77 Stat. 117.)

CODIFICATION

Section was enacted as part of R.S. § 4233 which is set out as sections 301, 302, 311 to 323, 331, and 341 to 352 of this title.

R.S. § 4233 is from act Apr. 29, 1864, ch. 69, 13 Stat. 58.

This rule, derived from R.S. § 4233, was amended by act Mar. 3, 1897, by inserting provisions for steam vessels when towing, and by changing the time for sounding various signals.

Act Feb. 19, 1895, adopted the provisions of R.S. § 4233 as special rules.

See also Codification note set out under section 301 of this title.

AMENDMENTS

1963—Subd. (d). Pub. L. 88-84 added the exception provision.

1948—Act May 21, 1948, amended section generally.

EFFECTIVE DATE OF 1948 AMENDMENT

Amendment by act May 21, 1948, effective Jan. 1, 1949, see section 6 of act May 21, 1948, set out as an Effective Date of 1948 Amendment note under section 301 of this title.

CROSS REFERENCES

Similar rules—
International rules for navigation at sea, see section 1076 of this title.
Navigation rules for Great Lakes and their connecting and tributary waters, see section 271 of this title.
Navigation rules for harbors, rivers and inland waters generally, see section 191 of this title.

SUBCHAPTER IV—STEERING AND SAILING RULES

§ 341. Rate of speed in fog or bad weather conditions (Rule 16)

Every steam vessel shall, in fog, mist, falling snow, heavy rainstorms, or any other condition similarly restricting visibility, whether by day or night, go at a moderate speed. A steam vessel hearing, apparently forward of her beam, the fog signal of another vessel shall at once reduce her speed to bare steerageway, and navigate with caution until the vessels shall have passed each other.

(R.S. § 4233; Feb. 19, 1895, ch. 102, § 1, 28 Stat. 672; Mar. 3, 1897, ch. 389, § 12, 29 Stat. 690; May 21, 1948, ch. 328, § 4, 62 Stat. 253.)

CODIFICATION

Section was enacted as part of R.S. § 4233 which is set out as sections 301, 302, 311 to 323, 331, and 341 to 352 of this title.

R.S. § 4233 is from act Apr. 29, 1864, ch. 69, 13 Stat. 58.

This rule as enacted in the Revised Statutes, read as follows: "Rule 16. If two sail-vessels are meeting end on, or nearly end on, so as to involve risk of collision, the helms of both shall be put to port, so that each may pass on the port side of the other."

It was amended by act Mar. 3, 1897, to read as follows:

"Rule 16. Risk of collision can, when circumstances permit, be ascertained by carefully watching the compass bearing of an approaching vessel. If the bearing does not appreciably change such risk should be deemed to exist."

Act Feb. 19, 1895, adopted the provisions of R.S. § 4233 as special rules.

See also Codification note set out under section 301 of this title.

AMENDMENTS

1948—Act May 21, 1948, amended section generally.

EFFECTIVE DATE OF 1948 AMENDMENT

Amendment by act May 21, 1948, effective Jan. 1, 1949, see section 6 of act May 21, 1948, set out as an Effective Date of 1948 Amendment note under section 301 of this title.

CROSS REFERENCES

Similar rules—
International rules for navigation at sea, see section 1077 of this title.
Navigation rules for Great Lakes and their connecting and tributary waters, see section 272 of this title.
Navigation rules for harbors, rivers, and inland waters generally, see section 192 of this title.

§ 341a. Ascertainment of risk of collision

Risk of collision can, when circumstances permit, be ascertained by carefully watching the bearing of an approaching vessel. If the bearing does not appreciably change such risk should be deemed to exist.

(R.S. § 4233; May 21, 1948, ch. 328, § 4, 62 Stat. 254.)

CODIFICATION

Section was enacted as part of R.S. § 4233 which is set out as sections 301, 302, 311 to 323, 331, and 341 to 352 of this title.

AMENDMENTS

1948—Act May 21, 1948, amended R.S. § 4233, by enacting provisions set out in this section.

EFFECTIVE DATE OF 1948 AMENDMENT

Amendment by act May 21, 1948, effective Jan. 1, 1949, see section 6 of act May 21, 1948, set out as an Effective Date of 1948 Amendment note under section 301 of this title.

CROSS REFERENCES

Similar rules—
International rules for navigation at sea, see section 1078 of this title.
Navigation rules for harbors, rivers and inland waters generally, see section 201 of this title.

§ 342. Sailing vessels approaching one another (Rule 17)

When two sailing vessels are approaching one another, so as to involve risk of collision, one of them shall keep out of the way of the other, as follows, namely:

(a) A vessel which is running free shall keep out of the way of a vessel which is close-hauled.

(b) A vessel which is close-hauled on the port tack shall keep out of the way of a vessel which is close-hauled on the starboard tack.

(c) When both are running free, with the wind on different sides, the vessel which has the wind on the port side shall keep out of the way of the other.

(d) When both are running free, with the wind on the same side, the vessel which is to the windward shall keep out of the way of the vessel which is to the leeward.

(e) A vessel which has the wind aft shall keep out of the way of the other vessel.

(R.S. § 4233; Feb. 19, 1895, ch. 102, § 1, 26 Stat. 672; Mar. 3, 1897, ch. 389, § 12, 29 Stat. 690; May 21, 1948, ch. 328, § 4, 62 Stat. 253.)

CODIFICATION

Section was enacted as part of R.S. § 4233 which is set out as sections 301, 302, 311 to 323, 331, and 341 to 352 of this title.

R.S. § 4233 is from act Apr. 29, 1864, ch. 69, 13 Stat. 58.

This rule as enacted in the Revised Statutes, read as follows:

"Rule 17. When two sail-vessels are crossing so as to involve risk of collision, then, if they have the wind on different sides, the vessel with the wind on the port side shall keep out of the way of the vessel with the wind on the starboard side, except in the case in which the vessel with the wind on the port side is close-hauled, and the other vessel free, in which case the latter vessel shall keep out of the way. But if they have the wind on the same side, or if one of them has the wind aft, the vessel which is to windward shall keep out of the way of the vessel which is to leeward."

It was amended by act Mar. 3, 1897, to read as set forth in section 342.

Act Feb. 19, 1895, adopted the provisions of R.S. § 4233 as special rules.

See also Codification note set out under section 301 of this title.

AMENDMENTS

1948—Act May 21, 1948, amended section generally.

EFFECTIVE DATE OF 1948 AMENDMENT

Amendment by act May 21, 1948, effective Jan. 1, 1949, see section 6 of act May 21, 1948, set out as an Effective Date of 1948 Amendment note under section 301 of this title.

CROSS REFERENCES

Similar rules—
International rules for navigation at sea, see section 1079 of this title.
Navigation rules for Great Lakes and their connecting and tributary waters, see section 281 of this title.
Navigation rules for harbors, rivers and inland waters generally, see section 202 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 348 of this title.

§ 343. Steam vessels meeting end on; signals (Rule 18)

(a) When two steam vessels are meeting end on, or nearly end on, so as to involve risk of collision, except when one steam vessel is ascending and the other descending a river, it shall be the duty of each to pass on the port side of the other, and to alter course to starboard sufficiently so that this can be done in safety. This maneuver shall require an exchange of one-blast signals when the vessels are not less than one-half mile apart, and either vessel shall blow the first signal which the other shall promptly answer.

(b) When an ascending steam vessel is approaching a descending steam vessel on a river, the signals for passing shall be one distinct blast of the whistle by each vessel if passing port to port, and two distinct blasts of the whistle if passing starboard to starboard.

The pilot of the ascending steam vessel shall give the first signal for passing, which shall promptly be answered by the same signal by the pilot of the descending steam vessel, if safe to do so, and both shall be governed accordingly; but if the pilot of the descending steam vessel deems it dangerous to take the side indicated by the ascending steam vessel, he shall immediately signify that fact by sounding four or more short and rapid blasts, the danger signal, and it shall be the duty of the pilot of the ascending steam vessel to answer by a similar danger signal and the engines of both shall immediately be stopped and backed, if necessary, until signals for passing are given, answered, and understood. After sounding the danger signal by both vessels, the pilot of the descending steam vessel shall indicate by his whistle the side on which he desires to pass, and the pilot of the ascending steam vessel shall govern himself accordingly, the descending steam vessel being entitled to the right-of-way.

The pilot of the descending steam vessel shall not blow the first signal, except that if the other vessel has not whistled when the steam vessels, or the forward end of their tows, if being pushed ahead, are within one-half mile of each other, he shall blow the first danger signal, which shall be promptly answered by a danger signal by the ascending vessel; but whether answered or not, the pilot of the descending vessel shall indicate the side on which he desires to pass, and both vessels shall be governed accordingly.

(R.S. § 4233; Feb. 19, 1895, ch. 102, § 1, 28 Stat. 672; May 21, 1948, ch. 328, § 4, 62 Stat. 254.)

CODIFICATION

Section was enacted as part of R.S. § 4233 which is set out as sections 301, 302, 311 to 323, 331, and 341 to 352 of this title.

R.S. § 4233 is from act Apr. 29, 1864, ch. 69, 13 Stat. 58.

Act Feb. 19, 1895, adopted the provisions of R.S. § 4233 as special rules.

See also Codification note set out under section 301 of this title.

AMENDMENTS

1948—Act May 21, 1948, amended section generally.

EFFECTIVE DATE OF 1948 AMENDMENT

Amendment by act May 21, 1948, effective Jan. 1, 1949, see section 6 of act May 21, 1948, set out as an Effective Date of 1948 Amendment note under section 301 of this title.

CROSS REFERENCES

Similar rules—
International rules for navigation at sea, see section 1080 of this title.
Navigation rules for Great Lakes and their connecting and tributary waters, see section 282 of this title.
Navigation rules for harbors, rivers and inland waters generally, see section 203 of this title.

§ 344. Steam vessels crossing; signals (Rule 19)

(a) When two steam vessels are crossing so as to involve risk of collision, other than when one vessel is overtaking another, the vessel which has the other to starboard shall keep out of the way of the other. Either vessel shall give, as a signal of intention to comply with this rule, one distinct blast of her whistle, which the other vessel shall answer with a similar blast: *Provided, however,* That a steam vessel descending a river and towing another vessel or vessels

shall be deemed to have the right-of-way over any steam vessel crossing the river, and shall give as a signal of her intention to hold on across the bow of the other vessel, three distinct blasts of the whistle. The crossing vessel shall immediately reply with a similar signal, and shall keep clear by stopping or going under the stern of the descending vessel.

(b) If from any cause the conditions covered by these situations are such as to prevent immediate compliance with each other's signals, the misunderstanding or objection shall be at once made apparent by blowing four or more short and rapid blasts, the danger signal, and both steam vessels shall be stopped and backed if necessary until signals for passing with safety in accordance with these rules are given, answered, and understood.

(R.S. § 4233; Feb. 19, 1895, ch. 102, § 1, 28 Stat. 672; May 21, 1948, ch. 328, § 4, 62 Stat. 254.)

REFERENCES IN TEXT

These rules, referred to in text, mean rules 1 to 27 which were promulgated by R.S. § 4233 and are classified to sections 302, 311 to 323, 331, 341 and 342 to 352 of this title.

CODIFICATION

Section was enacted as part of R.S. § 4233 which is set out as sections 301, 302, 311 to 323, 331, and 341 to 352 of this title.

R.S. § 4233 is from act Apr. 29, 1864, ch. 69, 13 Stat. 58.

Act Feb. 19, 1895, adopted the provisions of R.S. § 4233 as special rules.

See also Codification note set out under section 301 of this title.

AMENDMENTS

1948—Act May 21, 1948, amended section generally.

EFFECTIVE DATE OF 1948 AMENDMENT

Amendment by act May 21, 1948, effective Jan. 1, 1949, see section 6 of act May 21, 1948, set out as an Effective Date of 1948 Amendment note under section 301 of this title.

CROSS REFERENCES

Similar rules—
International rules for navigation at sea, see section 1081 of this title.
Navigation rules for Great Lakes and their connecting and tributary waters, see section 283 of this title.
Navigation rules for harbors, rivers, and inland waters generally, see section 204 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 348 of this title.

§ 345. Steam and sailing vessels meeting (Rule 20)

When a steam vessel and a sailing vessel are proceeding in such directions as to involve risk of collision, except when the sailing vessel is overtaking the steam vessel, the steam vessel shall keep out of the way of the sailing vessel. This section shall not give to a sailing vessel the right to hamper the safe passage of a large steam vessel or vessel with tow that is ascending or descending a river.

(R.S. § 4233; Feb. 19, 1895, ch. 102, § 1, 28 Stat. 672; May 21, 1948, ch. 328, § 4, 62 Stat. 255; Nov. 5, 1966, Pub. L. 89-764, § 5, 80 Stat. 1313.)

CODIFICATION

Section was enacted as part of R.S. § 4233 which is set out as sections 301, 302, 311 to 323, 331, and 341 to 352 of this title.

R.S. § 4233 is from act Apr. 29, 1864, ch. 69, 13 Stat. 58.

Act Feb. 19, 1895, adopted the provisions of R.S. § 4233 as special rules.

See also Codification note set out under section 301 of this title.

AMENDMENTS

1966—Pub. L. 89-764 inserted sentence providing that this section shall not give to a sailing vessel the right to hamper the safe passage of a large steam vessel or vessel with tow that is ascending or descending a river.

1948—Act May 21, 1948, amended section generally.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-764 effective as of the ninetieth day after Nov. 5, 1966, see section 7 of Pub. L. 89-764, set out as an Effective Date of 1966 Amendment note under section 205 of this title.

EFFECTIVE DATE OF 1948 AMENDMENT

Amendment by act May 21, 1948, effective Jan. 1, 1949, see section 6 of act May 21, 1948, set out as an Effective Date of 1948 Amendment note under section 301 of this title.

CROSS REFERENCES

Similar rules—
International rules for navigation at sea, see section 1082 of this title.
Navigation rules for Great Lakes and their connecting and tributary waters, see section 284 of this title.
Navigation rules for harbors, rivers and inland waters generally, see section 205 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 348 of this title.

§ 346. Duty of steam vessels to slacken speed (Rule 21)

Every steam vessel, when approaching another vessel so as to involve risk of collision, shall slacken her speed, or, if necessary, stop and reverse.

(R.S. § 4233; Feb. 19, 1895, ch. 102, § 1, 28 Stat. 672; May 21, 1948, ch. 328, § 4, 62 Stat. 255.)

CODIFICATION

Section was enacted as part of R.S. § 4233 which is set out as sections 301, 302, 311 to 323, 331, and 341 to 352 of this title.

R.S. § 4233 is from act Apr. 29, 1864, ch. 69, 13 Stat. 58.

Act Feb. 19, 1895, adopted the provisions of R.S. § 4233 as special rules.

See also Codification note set out under section 301 of this title.

AMENDMENTS

1948—Act May 21, 1948, amended section generally.

EFFECTIVE DATE OF 1948 AMENDMENT

Amendment by act May 21, 1948, effective Jan. 1, 1949, see section 6 of act May 21, 1948, set out as an Effective Date of 1948 Amendment note under section 301 of this title.

CROSS REFERENCES

Similar rules—
International rules for navigation at sea, see section 1085 of this title.

Navigation rules for Great Lakes and their connecting and tributary waters, see section 286 of this title.
Navigation rules for harbors, rivers and inland waters generally, see section 208 of this title.

§ 347. Overtaking vessels to keep out of way; signals (Rule 22)

(a) Notwithstanding anything contained in these rules, every vessel, overtaking any other, shall keep out of the way of the overtaken vessel.

Every vessel coming up with another vessel from any direction more than two points abaft her beam shall be deemed to be an overtaking vessel; and no subsequent alteration of the bearing between the two vessels shall make the overtaking vessel a crossing vessel within the meaning of these rules, or relieve her of the duty of keeping clear of the overtaken vessel until she is finally past and clear.

As the overtaking vessel cannot always know with certainty whether she is forward of or abaft this direction from the other vessel, she should, if in doubt, assume that she is an overtaking vessel and keep out of the way.

(b) When one steam vessel is overtaking another steam vessel, so as to involve risk of collision, and the overtaking vessel shall desire to pass on the right or starboard side of the other vessel, she shall give, as a signal of such desire, one distinct blast of her whistle, and if the overtaken vessel answers with one blast, shall direct her course to starboard; or if the overtaking vessel shall desire to pass on the left or port side of the other vessel, she shall give as a signal of such desire, two distinct blasts of her whistle and if the overtaken vessel answers with two blasts, shall direct her course to port. However, if the overtaken vessel does not think it is safe for the overtaking vessel to attempt to pass at that time, she shall immediately so signify by giving several short and rapid blasts of her whistle, not less than four, and under no circumstances shall the overtaking vessel attempt to pass until such time as they have reached a point where it can be safely done, and the overtaken vessel shall have signified her willingness by blowing the proper signal, two blasts for the overtaking vessel to pass on the port side, one blast to pass on the starboard side, which signal shall be answered with a similar signal by the overtaking vessel before passing. After an agreement has been reached the overtaken vessel shall in no case attempt to cross the bow or crowd upon the course of the overtaking vessel.

(R.S. § 4233; Feb. 19, 1895, ch. 102, § 1, 28 Stat. 672; May 21, 1948, ch. 328, § 4, 62 Stat. 255.)

REFERENCES IN TEXT

These rules, referred to in text, mean rules 1 to 27 which were promulgated by R.S. § 4233 and are classified to sections 302, 311 to 323, 331, 341 and 342 to 352 of this title.

CODIFICATION

Section was enacted as part of R.S. § 4233 which is set out as sections 301, 302, 311 to 323, 331, and 341 to 352 of this title.

R.S. § 4233 is from act Apr. 29, 1864, ch. 69, 13 Stat. 58.

Act Feb. 19, 1895, adopted the provisions of R.S. § 4233 as special rules.

See also Codification note set out under section 301 of this title.

AMENDMENTS

1948—Act May 21, 1948, amended section generally.

EFFECTIVE DATE OF 1948 AMENDMENT

Amendment by act May 21, 1948, effective Jan. 1, 1949, see section 6 of act May 21, 1948, set out as an Effective Date of 1948 Amendment note under section 301 of this title.

CROSS REFERENCES

Similar rules—
International rules for navigation at sea, see section 1086 of this title.
Navigation rules for Great Lakes and their connecting and tributary waters, see section 287 of this title.
Navigation rules for harbors, rivers and inland waters generally, see section 209 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 348 of this title.

§ 348. Vessel having right of way to keep course (Rule 23)

Where by sections 342, 344, 345, and 347 of this title one of two vessels shall keep out of the way, the other shall keep her course, subject to the qualifications of section 350 of this title.

(R.S. § 4233; Feb. 19, 1895, ch. 102, § 1, 28 Stat. 672; May 21, 1948, ch. 328, § 4, 62 Stat. 255.)

CODIFICATION

Section was enacted as part of R.S. § 4233 which is set out as sections 301, 302, 311 to 323, 331, and 341 to 352 of this title.

R.S. § 4233 is from act Apr. 29, 1864, ch. 69, 13 Stat. 58.

Act Feb. 19, 1895, adopted the provisions of R.S. § 4233 as special rules.

See also Codification note set out under section 301 of this title.

AMENDMENTS

1948—Act May 21, 1948, amended section generally.

EFFECTIVE DATE OF 1948 AMENDMENT

Amendment by act May 21, 1948, effective Jan. 1, 1949, see section 6 of act May 21, 1948, set out as an Effective Date of 1948 Amendment note under section 301 of this title.

CROSS REFERENCES

Similar rules—
International rules for navigation at sea, see section 1083 of this title.
Navigation rules for Great Lakes and their connecting and tributary waters, see section 285 of this title.
Navigation rules for harbors, rivers and inland waters generally, see section 206 of this title.

§ 348a. Steam vessel not to hamper safe passage of large vessel or vessel with tow (Rule 23(A))

A steam vessel of less than sixty-five feet in length which can maneuver easily shall not hamper the safe passage of a large vessel or vessel with tow that is ascending or descending a river.

(R.S. § 4233, Rule 23(A), as added Pub. L. 89-764, § 6, Nov. 5, 1966, 80 Stat. 1313.)

CODIFICATION

Section was enacted as part of R.S. § 4233 which is set out as sections 301, 302, 311 to 323, 331, and 341 to 352 of this title.

EFFECTIVE DATE

Section effective as of the ninetieth day after Nov. 5, 1966, see section 7 of Pub. L. 89-764, set out as an Effective Date of 1966 Amendment note under section 205 of this title.

§ 349. Danger signals; responding signals; additional signals (Rule 24)

(a) Danger signals for approaching steam vessels

If, when steam vessels are approaching each other either vessel for any reason fails to understand, or regards as unsafe, the course or intention of the other, the vessel in doubt shall immediately so signify by giving several short and rapid blasts of her whistle, at least four, the danger signal.

(b) Responding signals for hidden steam vessels

Whenever a steam vessel, whether ascending or descending, is nearing a bend in a channel where, from the height of the banks or other cause, a steam vessel approaching from the other direction cannot be seen for a distance of six hundred yards, such steam vessel, when within six hundred yards of such bend—or if she have a tow projecting ahead, then when the head of such tow is within six hundred yards of the bend—shall give a signal by three distinct blasts of her whistle, which signal shall be answered by a similar signal given by any approaching steam vessel that may be within hearing around the bend. Should such signal be so answered by a steam vessel upon the farther side of such bend, then, immediately upon sighting each other, the usual signals for meeting and passing shall be given and answered. Regardless of whether an approaching vessel on the farther side of the bend is heard, such bend shall be rounded with alertness and caution.

(c) Signals for steam vessels moving from dock or anchorage; additional signals

When a steam vessel is moved from her dock, or anchorage, she shall give the same signal as in the case of a steam vessel nearing a bend, but she and any approaching vessel shall be governed by sections 350 and 351 of this title until her course is apparent, and then both vessels shall be governed by the other steering and sailing rules.

(For additional whistle signals and other regulations established by the Commandant, United States Coast Guard, see Pilot Rules for Western Rivers as prescribed under section 353 of this title.)

(R.S. § 4233; Feb. 19, 1895, ch. 102, § 1, 28 Stat. 672; May 21, 1948, ch. 328, § 4, 62 Stat. 255.)

CODIFICATION

Section was enacted as part of R.S. § 4233 which is set out as sections 301, 302, 311 to 323, 331, and 341 to 352 of this title.

R.S. § 4233 is from act Apr. 29, 1864, ch. 69, 13 Stat. 58.

Act Feb. 19, 1895, adopted the provisions of R.S. § 4233 as special rules.

See also Codification note set out under section 301 of this title.

AMENDMENTS

1948—Act May 21, 1948, amended section generally.

EFFECTIVE DATE OF 1948 AMENDMENT

Amendment by act May 21, 1948, effective Jan. 1, 1949, see section 6 of act May 21, 1948, set out as an Effective Date of 1948 Amendment note under section 301 of this title.

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation, and all functions, powers, and duties relating to the Coast Guard of the Secretary of the Treasury and of other officers and offices of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, § 6(b)(1), Oct. 15, 1966, 80 Stat. 938. Section 6(b)(2) of Pub. L. 89-670, however, provided that notwithstanding such transfer of functions, the Coast Guard shall operate as part of the Navy in time of war or when the President directs as provided in section 3 of Title 14, Coast Guard. See section 1655 of Title 49, Transportation.

For transfer of functions of other officers, employees, and agencies of the Department of the Treasury, with certain exceptions, to the Secretary of the Treasury with power to delegate, see Reorg. Plan No. 26 of 1950, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, 1281, set out in the Appendix to Title 5, Government Organization and Employees. Functions of the Coast Guard, and the Commandant of the Coast Guard, were excepted from transfer when the Coast Guard is operating as part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

CROSS REFERENCES

Similar rules—
- International rules for navigation at sea, see sections 1087 and 1090 of this title.
- Navigation rules for Great Lakes and their connecting and tributary waters, see sections 290 and 291 of this title.
- Navigation rules for harbors, rivers and inland waters generally, see section 203 of this title.

§ 350. Departure from rules to avoid collision (Rule 25)

In obeying and construing these rules due regard shall be had to all dangers of navigation and collision and to any special circumstances which may render a departure from the above rules necessary in order to avoid immediate danger. When such departure becomes necessary neither vessel shall have the right-of-way and both shall navigate with caution until danger of collision is over.

(R.S. § 4233; Feb. 19, 1895, ch. 102, § 1, 28 Stat. 672; Mar. 3, 1897, ch. 389, § 13, 29 Stat. 690; May 21, 1948, ch. 328, § 4, 62 Stat. 256.)

REFERENCES IN TEXT

These rules, referred to in text, mean rules 1 to 27 which were promulgated by R.S. § 4233 and are classified to sections 302, 311 to 323, 331, 341, and 342 to 352 of this title.

The above rules, referred to in text, mean rules 1 to 24 which were promulgated by R.S. § 4233 and are classified to sections 302, 311 to 323, 331, 341, and 342 to 349 of this title.

CODIFICATION

Section was enacted as part of R.S. § 4233 which is set out as sections 301, 302, 311 to 323, 331, and 341 to 352 of this title.

R.S. § 4233 is from act Apr. 29, 1864, ch. 69, 13 Stat. 58.

This rule was added to R.S. § 4233 by amendment thereof by act Mar. 3, 1897, and required overtaken sailing vessel to show a torch or light.

Act Feb. 19, 1895, adopted the provisions of R.S. § 4233 as special rules.

See also Codification note set out under section 301 of this title.

AMENDMENTS

1948—Act May 21, 1948, amended section generally.

EFFECTIVE DATE OF 1948 AMENDMENT

Amendment by act May 21, 1948, effective Jan. 1, 1949, see section 6 of act May 21, 1948, set out as an Effective Date of 1948 Amendment note under section 301 of this title.

CROSS REFERENCES

Similar rules—

International rules for navigation at sea, see section 1089 of this title.

Navigation rules for Great Lakes and their connecting and tributary waters, see section 292 of this title.

Navigation rules for harbors, rivers and inland waters generally, see section 212 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 348, 349 of this title.

§ 351. Usual additional precautions required (Rule 26)

Nothing in these rules shall exonerate any vessel, or the owner or master or crew thereof, from the consequences of any neglect to carry lights or signals, or of any neglect to keep a proper look-out, or of the neglect of any precaution which may be required by the ordinary practice of seamen, or by the special circumstances of the case.

(R.S. § 4233; Feb. 19, 1895, ch. 102, § 1, 28 Stat. 672; Mar. 3, 1897, ch. 389, § 13, 29 Stat. 690; May 21, 1948, ch. 328, § 4, 62 Stat. 256.)

REFERENCES IN TEXT

These rules, referred to in text, mean rules 1 to 27 which were promulgated by R.S. § 4233 and are classified to sections 302, 311 to 323, 331, 341, and 342 to 352 of this title.

CODIFICATION

Section was enacted as part of R.S. § 4233 which is set out as sections 301, 302, 311 to 323, 331, and 341 to 352 of this title.

R.S. § 4233 is from act Apr. 29, 1864, ch. 69, 13 Stat. 58.

This rule was added to R.S. § 4233 by amendment thereof by act Mar. 3, 1897.

Act Feb. 19, 1895, adopted the provisions of R.S. § 4233 as special rules.

See also Codification note set out under section 301 of this title.

AMENDMENTS

1948—Act May 21, 1948, amended section generally.

EFFECTIVE DATE OF 1948 AMENDMENT

Amendment by act May 21, 1948, effective Jan. 1, 1949, see section 6 of act May 21, 1948, set out as an Effective Date of 1948 Amendment note under section 301 of this title.

CROSS REFERENCES

Similar rules—

International rules for navigation at sea, see section 1091 of this title.

Navigation rules for Great Lakes and their connecting and tributary waters, see section 293 of this title.

Navigation rules for harbors, rivers and inland waters generally, see section 221 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 349 of this title.

SUBCHAPTER V—ORDERS

§ 352. Orders to helmsmen (Rule 27)

All orders to helmsmen shall be given as follows:

"Right rudder" to mean "Direct the vessel's head to starboard"

"Left rudder" to mean "Direct the vessel's head to port."

(R.S. § 4233; Feb. 19, 1895, ch. 102, § 1, 28 Stat. 672; Aug. 21, 1935, ch. 595, § 4, 49 Stat. 669; May 21, 1948, ch. 328, § 4, 62 Stat. 256.)

CODIFICATION

Section was enacted as part of R.S. § 4233 which is set out as sections 301, 302, 311 to 323, 331, and 341 to 352 of this title.

Act Feb. 19, 1895, adopted the provisions of R.S. § 4233 as special rules.

AMENDMENTS

1948—Act May 21, 1948, reenacted section without change.

EFFECTIVE DATE OF 1948 AMENDMENT

Amendment by act May 21, 1948, effective Jan. 1, 1949, see section 6 of act May 21, 1948, set out as an Effective Date of 1948 Amendment note under section 301 of this title.

EFFECTIVE DATE

Section effective with respect to all ocean and coastwise vessels on Jan. 1, 1936, and with respect to all vessels on the Great Lakes, bays, sounds, harbors, rivers, and lakes other than the Great Lakes on Jan. 1, 1937, see section 5 of act Aug. 21, 1935, set out as an Effective Date of 1935 Amendment note under section 203 of this title.

CROSS REFERENCES

Similar rules—

Navigation rules for Great Lakes and their connecting and tributary waters, see section 294 of this title.

Navigation rules for harbors, rivers and inland waters generally, see section 232 of this title.

SUBCHAPTER VI—MISCELLANEOUS PROVISIONS

§ 353. Establishment of special rules; publication; hearings

(a) The Secretary of the Department in which the Coast Guard is operating shall establish such rules to be observed, on the waters described in section 301 of this title, by steam vessels in passing each other and as to the lights and day signals to be carried on such waters by ferryboats, by vessels and craft of all types when in tow of steam vessels or operating by hand power or horsepower or drifting with the current, and by any other vessels not otherwise provided for, not inconsistent with the provisions of this Act, as he from time to time may deem necessary for safety, which rules are declared special rules duly made by local authori-

ty. A pamphlet containing such Act and regulations shall be furnished to all vessels and craft subject to this Act. On vessels and craft over sixty-five feet in length the pamphlet shall, where practicable, be kept on board and available for ready reference.

(b) Except in an emergency, before any rules or any alteration, amendment, or repeal thereof, are established by the Secretary under the provisions of this section, the said Secretary shall publish the proposed rules, alterations, amendments, or repeals, and public hearings shall be held with respect thereto on such notice as the Secretary deems reasonable under the circumstances.

(R.S. § 4233A, as added May 21, 1948, ch. 328, § 4, 62 Stat. 256, and amended Aug. 14, 1958, Pub. L. 85-656, § 2, 72 Stat. 612.)

REFERENCES IN TEXT

This Act, referred to in subsec. (a), probably means act May 21, 1948, ch. 328, 62 Stat. 249, which is classified to sections 154, 157, 158, 159, 173, 301, 302, 311 to 323, 331, and 341 to 356 of this title. For complete classification of this Act to the Code, see Tables volume.

CODIFICATION

Section was not enacted as part of R.S. § 4233, which comprises this chapter.

AMENDMENTS

1958—Subsec. (a). Pub. L. 85-656 substituted "Secretary of the Department in which the Coast Guard is operating" for "Commandant of the United States Coast Guard", authorized establishment of rules for day signals, eliminated provisions requiring posting of copies of the rules in a conspicuous place, and inserted provisions requiring, where practicable, every vessel and craft over 65 feet in length to keep a pamphlet on board and available for ready reference.

Subsec. (b). Pub. L. 85-656 substituted "Secretary" for "Commandant of the United States Coast Guard" and "Commandant", and eliminated provisions requiring the hearing to be held before the Coast Guard Merchant Marine Council.

EFFECTIVE DATE

Section effective Jan. 1, 1949, see section 6 of act May 21, 1948, set out as an Effective Date of 1948 Amendment note under section 301 of this title.

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation, and all functions, powers, and duties relating to the Coast Guard of the Secretary of the Treasury and of other officers and offices of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, § 6(b)(1), Oct. 15, 1966, 80 Stat. 938. Section 6(b)(2) of Pub. L. 89-670, however, provided that notwithstanding such transfer of functions, the Coast Guard shall operate as part of the Navy in time of war or when the President directs as provided in section 3 of Title 14, Coast Guard. See section 1655 of Title 49, Transportation.

For transfer of functions of other officers, employees, and agencies of the Department of the Treasury, with certain exceptions, to the Secretary of the Treasury with power to delegate, see Reorg. Plan No. 26 of 1950, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, 1281, set out in the Appendix to Title 5, Government Organization and Employees. Functions of the Coast Guard, and the Commandant of the Coast Guard, were excepted from transfer when the Coast Guard is operating as part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

CROSS REFERENCES

Similar provisions—
Navigation rules for Great Lakes and their connecting and tributary waters, see section 243 of this title.
Navigation rules for harbors, rivers and inland waters generally, see section 157 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 349, 354, 355 of this title.

§ 354. Penalties for violation by pilot, engineer, mate, or master

Every licensed or unlicensed pilot, engineer, mate, or master of any steam vessel, and every master or mate of any barge, canal boat, scow, or other nondescript craft, who neglects or refuses to observe the provisions of this chapter, or the regulations established in pursuance of section 353 of this title, shall be liable to a penalty not exceeding $500, and for all damages sustained by any passenger in his person or baggage by such neglect or refusal: *Provided*, That nothing herein shall relieve any vessel, owner, or corporation from any liability incurred by reason of such neglect or refusal.

(R.S. § 4233B, as added May 21, 1948, ch. 328, § 4, 62 Stat. 256.)

CODIFICATION

Section was not enacted as part of R.S. § 4233, which comprises this chapter.

EFFECTIVE DATE

Section effective Jan. 1, 1949, see section 6 of act May 21, 1948, set out as an Effective Date of 1948 Amendment note under section 301 of this title.

CROSS REFERENCES

Similar provisions, navigation rules for harbors, rivers and inland waters generally, see section 158 of this title.

§ 355. Penalty for violations by vessel

Every vessel that shall be navigated without complying with the provisions of this chapter, or the regulations established in pursuance of section 353 of this title, shall be liable to a penalty of $500, one-half to go to the informer, for which sum the vessel so navigated shall be liable and may be seized and proceeded against by action in any district court of the United States having jurisdiction of the offense.

(R.S. § 4233C, as added May 21, 1948, ch. 328, § 4, 62 Stat. 257.)

CODIFICATION

Section was not enacted as part of R.S. § 4233, which comprises this chapter.

EFFECTIVE DATE

Section effective Jan. 1, 1949, see section 6 of act May 21, 1948, set out as an Effective Date of 1948 Amendment note under section 301 of this title.

CROSS REFERENCES

Similar provisions—
Navigation rules for Great Lakes and their connecting and tributary waters, see section 244 of this title.
Navigation rules for harbors, rivers and inland waters generally, see section 159 of this title.

Penalty for violation by vessel, see, also, section 303 of this title.

§ 356. Exemption of Navy and Coast Guard vessels from compliance with International Rules of the Road

Where any Navy or Coast Guard vessel of special construction, as certified to by the Secretary of the Navy, or the Secretary of Transportation in the case of Coast Guard vessels operating under the Department of Transportation, or such official or officials as either may designate, is now or may hereafter by virtue of statute, convention, or treaty, be exempt from compliance with any requirements of the International Rules of the Road, such type of vessel shall similarly be exempt from compliance with any corresponding requirement under the rules specified in this Act.

(May 21, 1948, ch. 328, § 5, 62 Stat. 257; Oct. 15, 1966, Pub. L. 89-670, § 6(b)(1), 80 Stat. 938.)

References in Text

International Rules of the Road, referred to in text, formerly classified as sections 71 to 142 of this title, and more recently as sections 144 to 147d of this title, are now covered by sections 1061 to 1093 of this title.

This Act, referred to in subsec. (a), means act May 21, 1948, ch. 328, 62 Stat. 249, which is classified to sections 154, 157, 158, 159, 173, 301, 302, 311 to 323, 331, and 341 to 356 of this title. For complete classification of this Act to the Code, see Tables volume.

Codification

Section was not enacted as part of R.S. § 4233, which comprises this chapter.

Effective Date

Section effective Jan. 1, 1949, see section 6 of act May 21, 1948, set out as an Effective Date of 1948 Amendment Note under section 301 of this title.

Transfer of Functions

The Coast Guard was transferred to the Department of Transportation, and all functions, powers, and duties relating to the Coast Guard of the Secretary of the Treasury and of other officers and offices of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, § 6(b)(1), Oct. 15, 1966, 80 Stat. 938. Section 6(b)(2) of Pub. L. 89-670, however, provided that notwithstanding such transfer of functions, the Coast Guard shall operate as part of the Navy in time of war or when the President directs as provided in section 3 of Title 14, Coast Guard. See section 1655 of Title 49, Transportation.

For transfer of functions of other officers, employees, and agencies of the Department of the Treasury, with certain exceptions, to the Secretary of the Treasury with power to delegate, see Reorg. Plan No. 26 of 1950, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, 1281, set out in the Appendix to Title 5, Government Organization and Employees. Functions of the Coast Guard, and the Commandant of the Coast Guard, were excepted from transfer when the Coast Guard is operating as part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

Cross References

Lights on Navy or Coast Guard vessels—
Exemptions from requirements, see sections 360 and 1052 of this title.
Exhibition suspended, see sections 222, 262, and 323 of this title.

CHAPTER 5A—EXEMPTION OF NAVY OR COAST GUARD VESSELS FROM CERTAIN NAVIGATION RULES

Sec.
360. Vessels of special construction exempted from requirements as to number, position, etc., of lights; certification of lights; compliance where possible.
360a. Publication of notice and character and number of lights.

§ 360. Vessels of special construction exempted from requirements as to number, position, etc., of lights; certification of lights; compliance where possible

Any requirement as to the number, position, range of visibility, or arc of visibility of lights required to be displayed by vessels under sections 61 to 141 of this title; or chapter 3 of this title; or chapter 4 of this title; or chapter 5 of this title; and all laws amendatory thereto, shall not apply to any vessel of the Navy or of the Coast Guard, where the Secretary of the Navy, or the Secretary of Transportation in the case of Coast Guard vessels operating under the Department of Transportation, or such official or officials as either may designate, shall find or certify that, by reason of special construction, it is not possible with respect to such vessel or class of vessels to comply with the statutory provisions as to the number, position, range of visibility, or arc of visibility of lights. The lights of any such exempted vessel or class of vessels shall, however, comply as closely to the requirements of the applicable sections as the Secretary shall find to be feasible.

(Dec. 3, 1945, ch. 511, § 1, 59 Stat. 590; Oct. 15, 1966, Pub. L. 89-670, § 6(b)(1), 80 Stat. 938.)

References in Text

Sections 61 to 141 of this title, referred to in text, were repealed by act Oct. 11, 1951, ch. 495, § 5, 65 Stat. 407, eff. Jan. 1, 1954, and are now covered by sections 1051 to 1093 of this title.

Transfer of Functions

The Coast Guard was transferred to the Department of Transportation, and all functions, powers, and duties relating to the Coast Guard of the Secretary of the Treasury and of other officers and offices of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, § 6(b)(1), Oct. 15, 1966, 80 Stat. 938. Section 6(b)(2) of Pub. L. 89-670, however, provided that notwithstanding such transfer of functions, the Coast Guard shall operate as part of the Navy in time of war or when the President directs as provided in section 3 of Title 14, Coast Guard. See section 1655 of Title 49, Transportation.

For transfer of functions of other officers, employees, and agencies of the Department of the Treasury, with certain exceptions, to the Secretary of the Treasury with power to delegate, see Reorg. Plan. No. 26 of 1950, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, 1281, set out in the Appendix to Title 5, Government Organization and Employees. Functions of the Coast Guard, and the Commandant of the Coast Guard, were excepted from transfer when the Coast Guard is operating as part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

Termination Date

Section 3 of act Dec. 3, 1945, which provided that sections 360 and 360a of this title should terminate on June 30, 1948, was repealed by act Mar. 5, 1948, ch. 99, 62 Stat. 69.

CROSS REFERENCES

Similar exemption under international rules for navigation at sea, see section 1052 of this title.

§ 360a. Publication of notice and character and number of lights

When the Secretary of the Navy or the Secretary of Transportation, or such official or officials as either may designate, shall make any finding or certification as prescribed in section 360 of this title, notice of such finding or certification and the character and position of the lights to be displayed on such vessel shall be published in "Notice to Mariners".

(Dec. 3, 1945, ch. 511, § 2, 59 Stat. 591; Oct. 15, 1966, Pub. L. 89-670, § 6(b)(1), 80 Stat. 938.)

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation, and all functions, powers, and duties relating to the Coast Guard of the Secretary of the Treasury and of other officers and offices of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, § 6(b)(1), Oct. 15, 1966, 80 Stat. 938. Section 6(b)(2) of Pub. L. 89-670, however, provided that notwithstanding such transfer of functions, the Coast Guard shall operate as part of the Navy in time of war or when the President directs as provided in section 3 of Title 14, Coast Guard. See section 1655 of Title 49, Transportation.

For transfer of functions of other officers, employees, and agencies of the Department of the Treasury, with certain exceptions, to the Secretary of the Treasury with power to delegate, see Reorg. Plan No. 26 of 1950, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, 1281, set out in the Appendix to Title 5, Government Organization and Employees. Functions of the Coast Guard, and the Commandant of the Coast Guard, were excepted from transfer when the Coast Guard is operating as part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

CROSS REFERENCES

Similar provisions under international rules for navigation at sea, see section 1052 of this title.

CHAPTER 6—GENERAL DUTIES OF SHIP OFFICERS AND OWNERS AFTER COLLISION OR OTHER ACCIDENT

Sec.
361. Reports of accidents generally; penalty.
362. Report of probable loss of vessel; penalty.
363. Transmission of reports to Commandant of the Coast Guard.
364. Remission and recovery of penalties.
365. Reports by owners, etc., of barges in tow.
366. Reports to Congress.
367. Duty of master of vessel in collision to give aid, name of his vessel, etc.
368. Penalty for failure to give aid, etc.

§ 361. Reports of accidents generally; penalty

From and after July 1, 1874, whenever any vessel of the United States has sustained or caused any accident involving the loss of life, the material loss of property, or any serious injury to any person, or has received any material damage affecting her seaworthiness or her efficiency, the managing owner, agent, or master of such vessel, shall within five days after the happening of such accident or damage, or as soon thereafter as possible, send, by letter to the Coast Guard official of the district wherein such vessel belongs or of that within which such accident or damage occurred, a report thereof, signed by such owner, agent, or master, stating the name and official number (if any) of the vessel, the port to which she belongs, the place where she was, the nature and probable occasion of the casualty, the number and names of those lost, and the estimated amount of loss or damage to the vessel or cargo; and shall furnish, upon the request of either of such Coast Guard officials, such other information concerning the vessel, her cargo, and the casualty as may be called for; and if he neglect or refuse to comply with the foregoing requirements after a reasonable time, he shall incur a penalty of $100.

(June 20, 1874, ch. 344, § 10, 18 Stat. 128; 1946 Reorg. Plan. No. 3, §§ 101-104, eff. July 16, 1946, 11 F.R. 7875, 60 Stat. 1097.)

TRANSFER OF FUNCTIONS

References to collector of customs were changed to Coast Guard official on authority of Reorg. Plan No. 3 of 1946, set out in the Appendix to Title 5, Government Organization and Employees. See note under section 1 of Title 46, Shipping.

The Coast Guard was transferred to the Department of Transportation, and all functions, powers, and duties relating to the Coast Guard of the Secretary of the Treasury and of other officers and offices of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, § 6(b)(1), Oct. 15, 1966, 80 Stat. 938. Section 6(b)(2) of Pub. L. 89-670, however, provided that notwithstanding such transfer of functions, the Coast Guard shall operate as part of the Navy in time of war or when the President directs as provided in section 3 of Title 14, Coast Guard. See section 1655 of Title 49, Transportation.

For transfer of functions of other officers, employees, and agencies of the Department of the Treasury, with certain exceptions, to the Secretary of the Treasury with power to delegate, see Reorg. Plan No. 26 of 1950, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, 1281, set out in the Appendix to Title 5, Government Organization and Employees. Functions of the Coast Guard, and the Commandant of the Coast Guard, were excepted from transfer when the Coast Guard is operating as part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

CROSS REFERENCES

Investigation of marine casualties by Commandant of the Coast Guard, see section 239 of Title 46, Shipping.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 363, 364, 365, 366 of this title.

§ 362. Report of probable loss of vessel; penalty

Whenever the managing owner or agent of any vessel of the United States has reason, owing to the nonappearance of such vessel, or to any other circumstance, to apprehend that such vessel has been lost, he shall, as soon as conveniently may be, send notice, in writing, to the Coast Guard official of the port to which said vessel belonged, of such loss, and the probable occasion thereof stating the name and the official number (if any) of the vessel, and the names of all persons on board, so far as the same can be ascertained, and shall furnish, upon request of the Coast Guard official of such port, such additional information as he may be able; and if he neglect to comply with

the above requirements within a reasonable time, he shall incur a penalty of $100.

(June 20, 1874, ch. 344, § 11, 18 Stat. 128; 1946 Reorg. Plan No. 3, §§ 101-104, eff. July 16, 1946, 11 F.R. 7875, 60 Stat. 1097.)

TRANSFER OF FUNCTIONS

References to collector of customs were changed to Coast Guard official on authority of Reorg. Plan No. 3 of 1946, set out in Appendix to Title 5, Government Organization and Employees. See note under section 1 of Title 46, Shipping.

The Coast Guard was transferred to the Department of Transportation, and all functions, powers, and duties relating to the Coast Guard of the Secretary of the Treasury and of other officers and offices of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, § 6(b)(1), Oct. 15, 1966, 80 Stat. 938. Section 6(b)(2) of Pub. L. 89-670, however, provided that notwithstanding such transfer of functions, the Coast Guard shall operate as part of the Navy in time of war or when the President directs as provided in section 3 of Title 14, Coast Guard. See section 1655 of Title 49, Transportation.

For transfer of functions of other officers, employees, and agencies of the Department of the Treasury, with certain exceptions, to the Secretary of the Treasury with power to delegate, see Reorg. Plan No. 26 of 1950, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, 1281, set out in the Appendix to Title 5, Government Organization and Employees. Functions of the Coast Guard, and the Commandant of the Coast Guard, were excepted from transfer when the Coast Guard is operating as part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 363, 364, 365, 366 of this title.

§ 363. Transmission of reports to Commandant of the Coast Guard

It shall be the duty of the Coast Guard officials to immediately transmit to the Commandant of the Coast Guard such reports and information as they may receive under the provisions of sections 361 and 362 of this title, and they shall also report to the Commandant of the Coast Guard any neglect or refusal on the part of the managing owner, agent, or master of any vessel of the United States to comply with the requirements thereof.

(June 20, 1874, ch. 344, § 12, 18 Stat. 128; Feb. 14, 1903, ch. 552, § 10, 32 Stat. 829; Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736; 1946 Reorg. Plan No. 3, §§ 101-104, eff. July 16, 1946, 11 F.R. 7875, 60 Stat. 1097.)

CODIFICATION

The original text of section 12 of act June 20, 1874, provided for transmission of reports to the Secretary of the Treasury. By act Feb. 14, 1903, the duties, power, etc., of the Secretary of the Treasury relating to merchant vessels were transferred to the Secretary of Commerce and Labor who was designated the Secretary of Commerce by act Mar. 4, 1913.

TRANSFER OF FUNCTIONS

"Commandant of the Coast Guard" was substituted for "Secretary of Commerce" and "Coast Guard officials" for "collector of customs" on authority of Reorg. Plan No. 3 of 1946, set out in the Appendix to Title 5, Government Organization and Employees. See note under section 1 of Title 46, Shipping.

The Coast Guard was transferred to the Department of Transportation, and all functions, powers, and duties relating to the Coast Guard of the Secretary of the Treasury and of other officers and offices of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, § 6(b)(1), Oct. 15, 1966, 80 Stat. 938. Section 6(b)(2) of Pub. L. 89-670, however, provided that notwithstanding such transfer of functions, the Coast Guard shall operate as part of the Navy in time of war or when the President directs as provided in section 3 of Title 14, Coast Guard. See section 1655 of Title 49, Transportation.

For transfer of functions of other officers, employees, and agencies of the Department of the Treasury, with certain exceptions, to the Secretary of the Treasury with power to delegate, see Reorg. Plan No. 26 of 1950, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, 1281, set out in the Appendix to Title 5, Government Organization and Employees. Functions of the Coast Guard, and the Commandant of the Coast Guard, were excepted from transfer when the Coast Guard is operating as part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 364, 365, 366 of this title.

§ 364. Remission and recovery of penalties

The Commandant of the Coast Guard may, upon application therefor, remit or mitigate any penalty provided for in sections 361 to 364 of this title, or discontinue any prosecution to recover the same, upon such terms as he, in his discretion, shall think proper, and shall have authority to ascertain the facts upon all such applications in such manner and under such regulations as he may think proper. All penalties provided in said sections may be sued for, prosecuted, recovered, and disposed of in the manner prescribed by section 396 of this title.

(June 20, 1874, ch. 344, § 13, 18 Stat. 128; Mar. 3, 1897, ch. 389, § 11, 29 Stat. 689; Feb. 14, 1903, ch. 552, § 10, 32 Stat. 829; Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736; 1946 Reorg. Plan No. 3, §§ 101-104, eff. July 16, 1946, 11 F.R. 7875, 60 Stat. 1097.)

CODIFICATION

Section 13 of act June 20, 1874, was amended by act Mar. 3, 1897, by striking out, after the words "as he, in his discretion, shall think proper," the words "all penalties hereinbefore provided shall be prosecuted by indictment or information before the proper district court for the use of the United States," and inserting, in place thereof, the words "All penalties herein provided," etc., to the end of said section.

The penalties referred to in said section 13 are the penalties prescribed by sections 361 and 362 of this title.

The original text of said section 13 referred to the Secretary of the Treasury instead of the Secretary of Commerce. By act Feb. 14, 1903, the duties, power, etc., of the Secretary of the Treasury relating to merchant vessels were transferred to the Secretary of Commerce and Labor who was designated the Secretary of Commerce by act Mar. 4, 1913.

TRANSFER OF FUNCTIONS

"Commandant of the Coast Guard" was substituted for "Secretary of Commerce" on authority of Reorg. Plan No. 3 of 1946, set out in Appendix to Title 5, Government Organization and Employees. See note under section 1 of Title 46, Shipping.

The Coast Guard was transferred to the Department of Transportation, and all functions, powers, and duties relating to the Coast Guard of the Secretary of the Treasury and of other officers and offices of the

Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, § 6(b)(1), Oct. 15, 1966, 80 Stat. 938. Section 6(b)(2) of Pub. L. 89-670, however, provided that notwithstanding such transfer of functions, the Coast Guard shall operate as part of the Navy in time of war or when the President directs as provided in section 3 of Title 14, Coast Guard. See section 1655 of Title 49, Transportation.

For transfer of functions of other officers, employees, and agencies of the Department of the Treasury, with certain exceptions, to the Secretary of the Treasury with power to delegate, see Reorg. Plan No. 26 of 1950, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, 1281, set out in the Appendix to Title 5, Government Organization and Employees. Functions of the Coast Guard, and the Commandant of the Coast Guard, were excepted from transfer when the Coast Guard is operating as part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 365, 366 of this title.

§ 365. Reports by owners, etc., of barges in tow

The owner, agent, or master of every barge which, while in tow through the open sea, has sustained or caused any accident, shall be subject in all respects to the provisions of sections 361 to 364 of this title, and the reports therein prescribed shall be transmitted by Coast Guard officials to the Commandant of the Coast Guard.

(Mar. 4, 1915, ch. 153, § 15, 38 Stat. 1184; 1946 Reorg. Plan No. 3, §§ 101-104, eff. July 16, 1946, 11 F.R. 7875, 60 Stat. 1097.)

CODIFICATION

This section comprises part of section 15 of act Mar. 4, 1915, the remaining portion of which is set out as section 366 of this title.

TRANSFER OF FUNCTIONS

"Commandant of the Coast Guard" was substituted for "Secretary of Commerce" and "Coast Guard officials" for "collector of customs" on authority of Reorg. Plan No. 3 of 1946, set out in Appendix to Title 5, Government Organization and Employees. See note under section 1 of Title 46, Shipping.

The Coast Guard was transferred to the Department of Transportation, and all functions, powers, and duties relating to the Coast Guard of the Secretary of the Treasury and of other officers and offices of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, § 6(b)(1), Oct. 15, 1966, 80 Stat. 938. Section 6(b)(2) of Pub. L. 89-670, however, provided that notwithstanding such transfer of functions, the Coast Guard shall operate as part of the Navy in time of war or when the President directs as provided in section 3 of Title 14, Coast Guard. See section 1655 of Title 49, Transportation.

For transfer of functions of other officers, employees, and agencies of the Department of the Treasury, with certain exceptions, to the Secretary of the Treasury with power to delegate, see Reorg. Plan No. 26 of 1950, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, 1281, set out in the Appendix to Title 5, Government Organization and Employees. Functions of the Coast Guard, and the Commandant of the Coast Guard, were excepted from transfer when the Coast Guard is operating as part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 366 of this title.

§ 366. Reports to Congress

The Commandant of the Coast Guard shall transmit annually to Congress a summary of the reports, transmitted to him by the Coast Guard officials as required in sections 361 to 365 of this title during the previous fiscal year, together with a brief statement of the action of the Coast Guard in respect to such accidents.

(Mar. 4, 1915, ch. 153, § 15, 38 Stat. 1184; 1946 Reorg. Plan No. 3, §§ 101-104, eff. July 16, 1946, 11 F.R. 7875, 60 Stat. 1097.)

CODIFICATION

Section comprises part of section 15 of Act Mar. 4, 1915, the remaining portion of which is set out as section 365 of this title.

TRANSFER OF FUNCTIONS

"Commandant of the Coast Guard" was substituted for "Secretary of Commerce" and "Coast Guard officials" for "collectors of customs" and a reference to Department of Commerce was changed to Coast Guard on authority of Reorg. Plan No. 3 of 1946, set out in Appendix to Title 5, Government Organization and Employees. See note under section 1 of Title 46, Shipping.

The Coast Guard was transferred to the Department of Transportation, and all functions, powers, and duties relating to the Coast Guard of the Secretary of the Treasury and of other officers and offices of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, § 6(b)(1), Oct. 15, 1966, 80 Stat. 938. Section 6(b)(2) of Pub. L. 89-670, however, provided that notwithstanding such transfer of functions, the Coast Guard shall operate as part of the Navy in time of war or when the President directs as provided in section 3 of Title 14, Coast Guard. See section 1655 of Title 49, Transportation.

For transfer of functions of other officers, employees, and agencies of the Department of the Treasury, with certain exceptions, to the Secretary of the Treasury with power to delegate, see Reorg. Plan No. 26 of 1950, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, 1281, set out in the Appendix to Title 5, Government Organization and Employees. Functions of the Coast Guard, and the Commandant of the Coast Guard, were excepted from transfer when the Coast Guard is operating as part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

§ 367. Duty of master of vessel in collision to give aid, name of his vessel, etc.

In every case of collision between two vessels it shall be the duty of the master or person in charge of each vessel, if and so far as he can do so without serious danger to his own vessel, crew, and passengers (if any), to stay by the other vessel until he has ascertained that she has no need of further assistance, and to render to the other vessel, her master, crew, and passengers (if any) such assistance as may be practicable and as may be necessary in order to save them from any danger caused by the collision, and also to give to the master or person in charge of the other vessel the name of his own vessel and her port of registry, or the port or place to which she belongs, and also the name of the ports and places from which and to which she is bound. If he fails so to do, and no reasonable cause for such failure is shown, the collision shall, in the absence of proof to the contrary, be deemed to have been caused by his wrongful act, neglect, or default.

(Sept. 4, 1890, ch. 875, § 1, 26 Stat. 425.)

EFFECTIVE DATE

Section 3 of act Sept. 4, 1890, provided that: "This Act [enacting this section and section 368 of this title] shall take effect at a time to be fixed by the President by Proclamation issued for that purpose." The Act was made to take effect Dec. 15, 1890, by Presidential Proclamation of Nov. 18, 1890, 26 Stat. 1561.

CROSS REFERENCES

Entries in log books of occurrence of collisions, see section 201 et seq. of Title 46, Shipping.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 368 of this title.

§ 368. Penalty for failure to give aid, etc.

Every master or person in charge of a United States vessel who fails, without reasonable cause, to render such assistance or give such information as required in section 367 of this title shall be deemed guilty of a misdemeanor, and shall be liable to a penalty of $1,000, or imprisonment for a term not exceeding two years; and for the above sum the vessel shall be liable and may be seized and proceeded against by process in any district court of the United States by any person; one-half such sum to be payable to the informer and the other half to the United States.

(Sept. 4, 1890, ch. 875, § 2, 26 Stat. 425.)

EFFECTIVE DATE

Section effective Dec. 15, 1890, see section 3 of act Sept. 4, 1890, set out as an Effective Date note under section 367 of this title.

CROSS REFERENCES

Offense punishable by imprisonment for term in excess of one year deemed a felony, see section 1 of Title 18, Crimes and Criminal Procedure.

CHAPTER 7—REGULATIONS FOR THE SUPPRESSION OF PIRACY

Sec.
381. Use of public vessels to suppress piracy.
382. Seizure of piratical vessels generally.
383. Resistance of pirates by merchant vessels.
384. Condemnation of piratical vessels.
385. Seizure and condemnation of vessels fitted out for piracy.
386. Commissioning private vessels for seizure of piratical vessels.
387. Duties of officers of customs and marshals as to seizure.

CROSS REFERENCES

Piracy and other offenses on the high seas, see section 1651 et seq. of Title 18, Crimes and Criminal Procedure.

§ 381. Use of public vessels to suppress piracy

The President is authorized to employ so many of the public armed vessels as in his judgment the service may require, with suitable instructions to the commanders thereof, in protecting the merchant vessels of the United States and their crews from piratical aggressions and depredations.

(R.S. § 4293.)

CODIFICATION

R.S. § 4293 is from acts Mar. 3, 1819, ch. 77, § 1, 3 Stat. 510; Jan. 30, 1823, ch. 7, 3 Stat. 721.

§ 382. Seizure of piratical vessels generally

The President is authorized to instruct the commanders of the public armed vessels of the United States to subdue, seize, take, and send into any port of the United States, any armed vessel or boat, or any vessel or boat, the crew whereof shall be armed, and which shall have attempted or committed any piratical aggression, search, restraint, depredation, or seizure, upon any vessel of the United States, or of the citizens thereof, or upon any other vessel; and also to retake any vessel of the United States, or its citizens, which may have been unlawfully captured upon the high seas.

(R.S. § 4294.)

CODIFICATION

R.S. § 4294 is from acts Mar. 3, 1819, ch. 77, § 2, 3 Stat. 512; Jan. 30, 1823, ch. 7, 3 Stat. 721.

§ 383. Resistance of pirates by merchant vessels

The commander and crew of any merchant vessel of the United States, owned wholly, or in part, by a citizen thereof, may oppose and defend against any aggression, search, restraint, depredation, or seizure, which shall be attempted upon such vessel, or upon any other vessel so owned, by the commander or crew of any armed vessel whatsoever, not being a public armed vessel of some nation in amity with the United States, and may subdue and capture the same; and may also retake any vessel so owned which may have been captured by the commander or crew of any such armed vessel, and send the same into any port of the United States.

(R.S. § 4295.)

CODIFICATION

R.S. § 4295 is from acts Mar. 3, 1819, ch. 77, § 3, 3 Stat. 513; Jan. 30, 1823, ch. 7, 3 Stat. 721.

§ 384. Condemnation of piratical vessels

Whenever any vessel, which shall have been built, purchased, fitted out in whole or in part, or held for the purpose of being employed in the commission of any piratical aggression, search, restraint, depredation, or seizure, or in the commission of any other act of piracy as defined by the law of nations, or from which any piratical aggression, search, restraint, depredation, or seizure shall have been first attempted or made, is captured and brought into or captured in any port of the United States, the same shall be adjudged and condemned to their use, and that of the captors after due process and trial in any court having admiralty jurisdiction, and which shall be holden for the district into which such captured vessel shall be brought; and the same court shall thereupon order a sale and distribution thereof accordingly, and at its discretion.

(R.S. § 4296.)

CODIFICATION

R.S. § 4296 is from acts Mar. 3, 1819, ch. 77, § 4, 3 Stat. 513; Jan. 30, 1823, ch. 7, 3 Stat. 721; Aug. 5, 1861, ch. 48, § 1, 12 Stat. 314.

§ 385. Seizure and condemnation of vessels fitted out for piracy

Any vessel built, purchased, fitted out in whole or in part, or held for the purpose of being employed in the commission of any piratical aggression, search, restraint, depredation, or seizure, or in the commission of any other act of piracy, as defined by the law of nations, shall be liable to be captured and brought into any port of the United States if found upon the high seas, or to be seized if found in any port or place within the United States, whether the same shall have actually sailed upon any piratical expedition or not, and whether any act of piracy shall have been committed or attempted upon or from such vessel or not; and any such vessel may be adjudged and condemned, if captured by a vessel authorized as mentioned in section 386 of this title to the use of the United States, and to that of the captors, and if seized by a collector, surveyor, or marshal, then to the use of the United States.

(R.S. § 4297.)

References in Text

"Surveyor", referred to in text, is probably an obsolete office in view of act July 5, 1932, ch. 430, title I, § 1, 47 Stat. 584, which abolished the offices of surveyors of customs, except at the Port of New York. Ports of delivery, except those which were made ports of entry, were abolished and the use of the term "port of delivery" was discontinued under the President's plan of reorganization of the customs service communicated to Congress by message dated Mar. 3, 1913.

Codification

R.S. § 4297 is from act Aug. 5, 1861, ch. 48, § 1, 12 Stat. 314.

Transfer of Functions

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise in the Bureau of Customs of the Department of the Treasury to which appointments were required to be made by the President with the advice and consent of the Senate were ordered abolished with such offices to be terminated not later than December 31, 1966, by Reorg. Plan No. 1 of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the offices eliminated were already vested in the Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to title 5.

Section Referred to in Other Sections

This section is referred to in section 386 of this title.

§ 386. Commissioning private vessels for seizure of piratical vessels

The President is authorized to instruct the commanders of the public-armed vessels of the United States, and to authorize the commanders of any other armed vessels sailing under the authority of any letters of marque and reprisal granted by Congress, or the commanders of any other suitable vessels, to subdue, seize, take, and, if on the high seas, to send into any port of the United States, any vessel or boat built, purchased, fitted out, or held as mentioned in section 385 of this title.

(R.S. § 4298.)

Codification

R.S. § 4298 is from act Aug. 5, 1861, ch. 48, § 2, 12 Stat. 315.

Section Referred to in Other Sections

This section is referred to in section 385 of this title.

§ 387. Duties of officers of customs and marshals as to seizure

The collectors of the several ports of entry, the surveyors of the several ports of delivery, and the marshals of the several judicial districts within the United States, shall seize any vessel or boat built, purchased, fitted out, or held as mentioned in section 385 of this title, which may be found within their respective ports or districts, and to cause the same to be proceeded against and disposed of as provided by that section.

(R.S. § 4299.)

Codification

R.S. § 4299 is from act Aug. 5, 1861, ch. 48, § 3, 12 Stat. 315.

References in Text

"Surveyors of the several ports of delivery", referred to in text, are probably obsolete offices in view of act July 5, 1932, ch. 430, title I, § 1, 47 Stat. 584, which abolished the offices of surveyors of customs, except at the Port of New York. Ports of delivery, except those which were made ports of entry, were abolished and the use of the term "port of delivery" was discontinued under the President's plan of reorganization of the customs service communicated to Congress by message dated Mar. 3, 1913.

Transfer of Functions

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise in the Bureau of Customs of the Department of the Treasury to which appointments were required to be made by the President with the advice and consent of the Senate were ordered abolished, with such offices to be terminated not later than December 31, 1966, by Reorg. Plan No. 1, of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the offices eliminated were already vested in the Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to title 5.

Cross References

Reorganization of customs service, see section 1 of Title 19, Customs Duties.

CHAPTER 8—SUMMARY TRIALS FOR CERTAIN OFFENSES AGAINST NAVIGATION LAWS

Sec.
391. Summary trials authorized.
392. Complaint and answer; jury trial.
393. Amendments of complaint and adjournments.
394. Challenge to jurors.
395. Limit of sentence.
396. Recovery of penalties and forfeitures generally.

§ 391. Summary trials authorized

Whenever a complaint shall be made against any master, officer, or seaman of any vessel belonging, in whole or in part, to any citizen of the United States, of the commission of any offense, not capital or otherwise infamous, against any law of the United States made for the protection of persons or property engaged

in commerce or navigation, it shall be the duty of the United States attorney to investigate the same, and the general nature thereof, and if, in his opinion, the case is such as should be summarily tried, he shall report the same to the district judge, and the judge shall forthwith, or as soon as the ordinary business of the court will permit, proceed to try the cause, and for that purpose may, if necessary, hold a special session of the court, either in term time or vacation.

(R.S. § 4300; June 25, 1948, ch. 646, § 1, 62 Stat. 909.)

CODIFICATION

R.S. § 4300 is from act June 11, 1864, ch. 121, § 2, 13 Stat. 124.

CHANGE OF NAME

Act June 25, 1948, eff. Sept. 1, 1948, substituted "United States attorney" for "district attorney". See section 541 of Title 28, Judiciary and Judicial Procedure, and Historical and Revision note thereunder.

CROSS REFERENCES

Criminal jurisdiction of district courts, generally, see section 3231 of Title 18, Crimes and Criminal Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 47 section 31.

§ 392. Complaint and answer; jury trial

At the summary trial of offenses against the laws for the protection of persons or property engaged in commerce or navigation, it shall not be necessary that the accused shall have been previously indicted, but a statement of complaint, verified by oath in writing, shall be presented to the court, setting out the offense in such manner as clearly to apprise the accused of the character of the offense complained of, and to enable him to answer the complaint. The complaint or statement shall be read to the accused, who may plead to or answer the same, or make a counterstatement. The trial shall thereupon be proceeded with in a summary manner, and the case shall be decided by the court, unless, at the time for pleading or answering, the accused shall demand a jury, in which case the trial shall be upon the complaint and plea of not guilty.

(R.S. § 4301.)

CODIFICATION

R.S. § 4301 is from act June 11, 1864, ch. 121, §§ 3, 4, 13 Stat. 125.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 47 section 31.

§ 393. Amendments of complaint and adjournments

It shall be lawful for the court to allow the United States attorney to amend his statement of complaint at any stage of the proceedings, before verdict, if, in the opinion of the court, such amendment will work no injustice to the accused; and if it appears to the court that the accused is unprepared to meet the charge as amended, and that an adjournment of the cause will promote the ends of justice, such adjournment shall be made, until a further day, to be fixed by the court.

(R.S. § 4302; June 25, 1948, ch. 646, § 1, 62 Stat. 909.)

CODIFICATION

R.S. § 4302 is from act June 11, 1864, ch. 121, § 6, 13 Stat. 125.

CHANGE OF NAME

Act June 25, 1948, eff. Sept. 1, 1948, substituted "United States attorney" for "district attorney". See section 541 of Title 28, Judiciary and Judicial Procedure, and Historical and Revision note thereunder.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 47 section 31.

§ 394. Challenge to jurors

At the trial in summary cases, if by jury, the United States and the accused shall each be entitled to three peremptory challenges. Challenges for cause, in such cases, shall be tried by the court without the aid of triers.

(R.S. § 4303.)

CODIFICATION

R.S. § 4303 is from act June 11, 1864, ch. 121, § 7, 13 Stat. 125.

FEDERAL RULES OF CRIMINAL PROCEDURE

Peremptory challenges, generally, see rule 24, Title 18, Appendix, Crimes and Criminal Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 47 section 31.

§ 395. Limit of sentence

It shall not be lawful for the court to sentence any person convicted in such trial to any greater punishment than imprisonment in jail for one year, or to a fine exceeding $500, or both, in its discretion, in those cases where the laws of the United States authorize such imprisonment and fine.

(R.S. § 4304.)

CODIFICATION

R.S. § 4304 is from act June 11, 1864, ch. 121, § 5, 13 Stat. 125.

CROSS REFERENCES

Felony and misdemeanor defined, see section 1 of Title 18, Crimes and Criminal Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 47 section 31.

§ 396. Recovery of penalties and forfeitures generally

All the penalties and forfeitures which may be incurred for offenses against title 48 of the Revised Statutes may be sued for, prosecuted, and recovered in such court, and be disposed of in such manner, as any penalties and forfeitures which may be incurred for offenses against the laws relating to the collection of duties, except when otherwise expressly prescribed.

(R.S. § 4305.)

REFERENCES IN TEXT

Title 48 of the Revised Statutes, referred to in text, consists of R.S. §§ 4131 to 4305. For complete classification of R.S. §§ 4131 to 4305 to the Code, see Tables volume.

CODIFICATION

R.S. § 4305 is from act Dec. 31, 1792, ch. 1, § 29, 1 Stat. 298.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 364 of this title; title 47 section 31.

CHAPTER 9—PROTECTION OF NAVIGABLE WATERS AND OF HARBOR AND RIVER IMPROVEMENTS GENERALLY

SUBCHAPTER I—IN GENERAL

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414. Removal by Secretary of the Army of sunken water craft generally.
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(f) Authorization of appropriations.
427 to 430. Repealed.

SUBCHAPTER II—OIL POLLUTION OF COASTAL WATERS

431 to 437. Repealed.

SUBCHAPTER III—NEW YORK HARBOR, HARBOR OF HAMPTON ROADS, AND HARBOR OF BALTIMORE

441. Deposit of refuse prohibited; penalty.
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451. Supervisor of harbor; appointment and duties.
451a. Harbors subject to this subchapter.
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452. Taking shellfish or otherwise interfering with navigation in New York Harbor channels; penalty; arrest and procedure.
453. Regulations for navigation of Ambrose Channel; exclusion of tows and sailing vessels.
454. Consent of Congress to obstruction of waters by New York City.

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461 to 464. Repealed.

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465. Authority to dredge; riparian rights of United States.

SUBCHAPTER VI—WATER POLLUTION CONTROL

466 to 466g. Transferred.
466g–1. Controversies involving construction or application of interstate compacts and pollution of waters.
(a) Jurisdiction of actions by States.
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467. Definition of dam.
467a. Inspection of dams; exceptions.
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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 1371, 1416 of this title.

SUBCHAPTER I—IN GENERAL

§ 401. Construction of bridges, causeways, dams or dikes generally

It shall not be lawful to construct or commence the construction of any bridge, dam, dike, or causeway over or in any port, roadstead, haven, harbor, canal, navigable river, or other navigable water of the United States until the consent of Congress to the building of such structures shall have been obtained and until the plans for the same shall have been submitted to and approved by the Chief of Engineers and by the Secretary of the Army: *Provided,* That such structures may be built under authority of the legislature of a State across rivers and other waterways the navigable portions of which lie wholly within the limits of a single State, provided the location and plans thereof are submitted to and approved by the Chief of Engineers and by the Secretary of the Army before construction is commenced: *And provided further,* That when plans for any bridge or other structure have been approved by the Chief of Engineers and by the Secretary of the Army, it shall not be lawful to deviate from such plans either before or after completion of the structure unless the modification of said plans has previously been submitted to and received the approval of the Chief of Engineers and of the Secretary of the Army.

(Mar. 3, 1899, ch. 425, § 9, 30 Stat. 1151.)

CODIFICATION

Section was part of the Rivers and Harbors Appropriation Act of 1899, and together with section 403 of this title superseded act Sept. 19, 1890, ch. 907, § 7, 26 Stat. 454, as amended by act July 13, 1892, ch. 158, § 3, 27 Stat. 88, which prohibited the erection of obstructions to navigation, and prohibited the erection of bridges over navigable waters under State legislation before the approval of the plans by the Secretary of War, and prohibited the alteration of channels unless authorized by that Secretary.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641, Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Secretary of the Army and other offices and officers of the Department of the Army under this section to the extent that they relate generally to the location and clearances of bridges and causeways in the navigable waters of the United States were transferred to and vested in the Secretary of Transportation by Pub. L.

89-670, § 6(g)(6)(A), Oct. 15, 1966, 80 Stat. 941. See section 1655 of Title 49, Transportation.

CROSS REFERENCES

Portion of west arm of South Fork of the South Branch of Chicago River in city of Chicago not to be subject to this section, see section 27 of this title.

Virgin Islands, application of this section to, see section 1399 of Title 48, Territories and Insular Possessions.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 27, 402, 406, 412, 413, 418, 530, 1293a of this title; title 42 section 1962d-11a; title 48 section 1399; title 49 section 1655.

§ 402. Construction of bridges, etc., over Illinois and Mississippi Canal

The provisions of section 401 of this title are made applicable alike to the completed and uncompleted portions of the Illinois and Mississippi Canal. Whenever the Secretary of the Army shall approve plans for a bridge to be built across said canal he may, in his discretion, and subject to such terms and conditions as in his judgment are equitable, expedient, and just to the public, grant to the person or corporation building and owning such bridge a right of way across the lands of the United States on either side of and adjacent to the said canal; also the privilege of occupying so much of said lands as may be necessary for the piers, abutments, and other portions of the bridge structure and approaches.

(June 13, 1902, ch. 1079, § 10, 32 Stat. 374.)

CODIFICATION

Section was part of the River and Harbor Appropriation Act of 1902.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Secretary of the Army and other offices and officers of the Department of the Army under section 401 of this title to the extent that they relate generally to the location and clearances of bridges and causeways in the navigable waters of the United States were transferred to and vested in the Secretary of Transportation by Pub. L. 89-670, § 6(g)(6)(A), Oct. 15, 1966, 80 Stat. 941. See section 1655 of Title 49, Transportation.

§ 403. Obstruction of navigable waters generally; wharves; piers, etc.; excavations and filling in

The creation of any obstruction not affirmatively authorized by Congress, to the navigable capacity of any of the waters of the United States is prohibited; and it shall not be lawful to build or commence the building of any wharf, pier, dolphin, boom, weir, breakwater, bulkhead, jetty, or other structures in any port, roadstead, haven, harbor, canal, navigable river, or other water of the United States, outside established harbor lines, or where no harbor lines have been established, except on plans recommended by the Chief of Engineers and authorized by the Secretary of the Army; and it shall not be lawful to excavate or fill, or in any manner to alter or modify the course, location, condition, or capacity of, any port, roadstead, haven, harbor, canal, lake, harbor or refuge, or inclosure within the limits of any breakwater, or of the channel of any navigable water of the United States, unless the work has been recommended by the Chief of Engineers and authorized by the Secretary of the Army prior to beginning the same.

(Mar. 3, 1899, ch. 425, § 10, 30 Stat. 1151.)

CODIFICATION

Section was part of the Rivers and Harbors Appropriation Act of 1899.

PRIOR PROVISIONS

Act Sept. 19, 1890, ch. 907, § 10, 26 Stat. 454, was probably omitted from the Code as superseded by this section but it was held by the Circuit Court of Appeals in Wishkah Boom Co., Wash. 1905, 136 F. 42, 68 C.C.A. 592 (appeal dismissed [1906] 26 S. Ct. 765, 202 U.S. 613, 50 L. Ed. 1171), that it was not superseded so far as it related to the continuance of obstructions. It provided that:

"The creation of any obstruction, not affirmatively authorized by law, to the navigable capacity of any waters, in respect of which the United States has jurisdiction, is hereby prohibited. The continuance of any such obstruction, except bridges, piers, docks, and wharves, and similar structures erected for business purposes, whether heretofore or hereafter created, shall constitute an offense and each week's continuance of any such obstruction shall be deemed a separate offense. Every person and every corporation which shall be guilty of creating or continuing any such unlawful obstruction in this act mentioned, or who shall violate the provisions of the last four preceding sections of this act, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine not exceeding five thousand dollars, or by imprisonment (in the case of a natural person) not exceeding one year, or by both such punishments, in the discretion of the court, the creating or continuing of any unlawful obstruction in this act mentioned may be prevented and such obstruction may be caused to be removed by the injunction of any circuit court [district court] exercising jurisdiction in any district in which such obstruction may be threatened or may exist; and proper proceedings in equity to this end may be instituted under the direction of the Attorney-General of the United States."

This section and section 9 of act Mar. 3, 1899 (section 401 of this title), superseded provisions of act Sept. 19, 1890, ch. 907, § 7, 26 Stat. 454, as amended by act July 13, 1892, ch. 158, § 3, 27 Stat. 110, which prohibited the erection of obstructions to navigation, and prohibited the erection of bridges over navigable waters under State legislation before the approval of the plans by the Secretary of War, and prohibited the alteration of channels unless authorized by said Secretary.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Secretary of the Army and other offices and officers of the Department of the Army under section 401 of this title to the extent that they relate generally to the location and clearances of bridges and causeways in the navigable waters of the United States were transferred to and vested in the Secretary of Transportation by Pub. L. 89-670 § 6(g)(6)(A), Oct. 15, 1966, 80 Stat. 941. See section 1655 of Title 49, Transportation.

CROSS REFERENCES

Bridges over navigable waters, see section 491 et seq. of this title.

Expenses of investigations by Department of the Army, see section 417 of this title.

Portion of west arm of South Fork of the South Branch of Chicago River in city of Chicago not to be subject to this section, see section 27 of this title.

Secretary of the Army to make navigation rules for—

Ambrose channel, see section 453 of this title.

South and Southwest Passes of Mississippi River, see section 2 of this title.

Violations as misdemeanors, see section 406 of this title.

Virgin Islands, applicability to, see section 1399 of Title 48, Territories and Insular Possessions.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 27, 406, 412, 413, 418, 465, 1371, 1503 of this title; title 48 section 1399.

§ 403a. Omitted

CODIFICATION

Section, acts Sept. 19, 1890, ch. 907, § 10, 26 Stat. 454; Mar. 3, 1911, ch. 231, § 291, 36 Stat. 1167, relating to obstruction of navigable waters, was omitted from Code. See Codification note set out under section 403 of this title.

§ 404. Establishment of harbor lines; conditions to grants for extension of piers, etc.

Where it is made manifest to the Secretary of the Army that the establishment of harbor lines is essential to the preservation and protection of harbors he may, and is, authorized to cause such lines to be established, beyond which no piers, wharves, bulkheads, or other works shall be extended or deposits made, except under such regulations as may be prescribed from time to time by him: *Provided*, That, whenever the Secretary of the Army grants to any person or persons permission to extend piers, wharves, bulkheads, or other works, or to make deposits in any tidal harbor or river of the United States beyond any harbor lines established under authority of the United States, he shall cause to be ascertained the amount of tidewater displaced by any such structure or by any such deposits, and he shall, if he deem it necessary, require the parties to whom the permission is given to make compensation for such displacement either by excavating in some part of the harbor, including tidewater channels between high and low water mark, to such an extent as to create a basin for as much tidewater as may be displaced by such structure or by such deposits, or in any other mode that may be satisfactory to him.

(Mar. 3, 1899, ch. 425, § 11, 30 Stat. 1151.)

CODIFICATION

Section was part of the Rivers and Harbors Appropriation Act of 1899.

PRIOR PROVISIONS

This section and section 406 of this title, superseded act Aug. 11, 1888, ch. 860, § 12, 25 Stat. 425, as amended by act Sept. 19, 1890, ch. 907, § 12, 26 Stat. 455, which authorized the establishment of harbor lines, and prescribed a penalty for a violation of the section or any rule made in pursuance of it.

Section also superseded act Aug. 18, 1894, ch. 299, § 9, 28 Stat. 364, which contained provisions for compensation for tide water displaced similar to the proviso in this section.

Act Aug. 5, 1886, ch. 929, § 2, 24 Stat. 329, which was probably omitted from the Code as superseded by this section, provided that: "In places where harbor-lines have not been established, and where deposits of débris of mines or stamp works can be made without injury to navigation, within lines to be established by the Secretary of War, said officer may, and is hereby authorized to, cause such lines to be established; and within such lines such deposits may be made, under regulations to be from time to time prescribed by him."

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Secretary of the Army and other offices and officers of the Department of the Army under section 401 of this title to the extent that they relate generally to the location and clearances of bridges and causeways in the navigable waters of the United States were transferred to and vested in the Secretary of Transportation by Pub. L. 89-670, § 6(g)(6)(A), Oct. 15, 1966, 80 Stat. 941. See section 1655 of Title 49, Transportation.

CROSS REFERENCES

Applicability to—

Potomac and Anacostia Rivers, see section 405 of this title.

Virgin Islands, see section 1399 of Title 48, Territories and Insular Possessions.

Modification and extension of harbor lines, see section 422 of this title.

Pierhead and bulkhead lines, establishment, see sections 423 and 424 of this title.

Violations as misdemeanors, see section 406 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 405, 406, 412, 413, 418 of this title; title 48 section 1399.

§ 405. Establishment and modification of harbor lines on Potomac and Anacostia Rivers

The provisions of section 404 of this title are made applicable to the Potomac and Anacostia Rivers, and after July 25, 1912, harbor lines in the District of Columbia, or elsewhere on said rivers, shall be established or modified as therein provided.

(July 25, 1912, ch. 253, § 1, 37 Stat. 206.)

CODIFICATION

Section is part of section 1 of the Rivers and Harbors Appropriation Act of 1912.

§ 406. Penalty for wrongful construction of bridges, piers, etc.; removal of structures

Every person and every corporation that shall violate any of the provisions of sections 401, 403, and 404 of this title or any rule or regulation made by the Secretary of the Army in pursuance of the provisions of section 404 of this title shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine not exceeding $2,500 nor less than $500, or by imprisonment (in the case of a natural person) not exceeding one year, or by both such punishments, in the discretion of the court. And further, the removal of any structures or parts of structures erected in violation of the provisions of the said sections may be enforced by the injunction of any district court exercising jurisdiction in any district in which such structures may exist, and proper proceedings to this end may be instituted under the direction of the Attorney General of the United States.

(Mar. 3, 1899, ch. 425, § 12, 30 Stat. 1151; Feb. 20, 1900, ch. 23, § 2, 31 Stat. 32; Mar. 3, 1911, ch. 231, § 291, 36 Stat. 1167.)

CODIFICATION

Section is from act Mar. 3, 1899, popularly known as the Rivers and Harbors Appropriation Act of 1899.

AMENDMENTS

1911—Act Mar. 3, 1911, transferred to the District Courts the enforcement powers formerly lodged in the Circuit Courts.

1900—Act Feb. 20, 1900, substituted the words "section eleven" for "section fourteen" where they first appeared, which for codification purposes, were translated to "section 404 of this title".

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Secretary of the Army and other offices and officers of the Department of the Army under section 401 of this title to the extent that they relate generally to the location and clearances of bridges and causeways in the navigable waters of the United States were transferred to and vested in the Secretary of Transportation by Pub. L. 89-670, § 6(g)(6)(A), Oct. 15, 1966, 80 Stat. 941, which created the Department of Transportation. See section 1655 of Title 49, Transportation.

CROSS REFERENCES

Felony and misdemeanor defined, see section 1 of Title 18, Crimes and Criminal Procedure.

Virgin Islands, application of this section to, see section 1399 of Title 48, Territories and Insular Possessions.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 412, 413, 418 of this title; title 48 section 1399.

§ 407. Deposit of refuse in navigable waters generally

It shall not be lawful to throw, discharge, or deposit, or cause, suffer, or procure to be thrown, discharged, or deposited either from or out of any ship, barge, or other floating craft of any kind, or from the shore, wharf, manufacturing establishment, or mill of any kind, any refuse matter of any kind or description whatever other than that flowing from streets and sewers and passing therefrom in a liquid state, into any navigable water of the United States, or into any tributary of any navigable water from which the same shall float or be washed into such navigable water; and it shall not be lawful to deposit, or cause, suffer, or procure to be deposited material of any kind in any place on the bank of any navigable water, or on the bank of any tributary of any navigable water, where the same shall be liable to be washed into such navigable water, either by ordinary or high tides, or by storms or floods, or otherwise, whereby navigation shall or may be impeded or obstructed: *Provided*, That nothing herein contained shall extend to, apply to, or prohibit the operations in connection with the improvement of navigable waters or construction of public works, considered necessary and proper by the United States officers supervising such improvement or public work: *And provided further*, That the Secretary of the Army, whenever in the judgment of the Chief of Engineers anchorage and navigation will not be injured thereby, may permit the deposit of any material above mentioned in navigable waters, within limits to be defined and under conditions to be prescribed by him, provided application is made to him prior to depositing such material; and whenever any permit is so granted the conditions thereof shall be strictly complied with, and any violation thereof shall be unlawful.

(Mar. 3, 1899, ch. 425, § 13, 30 Stat. 1152.)

PRIOR PROVISIONS

This section and sections 408, 411, and 412 of this title, superseded act Aug. 18, 1894, ch. 299, §§ 6, 7, 8, 28 Stat. 363, which prohibited the depositing of refuse in navigable waters for the improvement of which money had been appropriated, and the injury to sea walls and other works built by the Government, and prescribed penalties for violations, including penalties against masters, etc., and vessels.

Section also superseded act Sept. 19, 1890, ch. 907, § 6, 26 Stat. 453, which prohibited obstructing navigation by deposits of refuse, etc., in navigable waters.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Secretary of the Army and other offices and officers of the Department of the Army under section 401 of this title to the extent that they relate generally to the location and clearances of bridges and causeways in the navigable waters of the United States were transferred to and

vested in the Secretary of Transportation by Pub. L. 89-670, § 6(g)(6)(A), Oct. 15, 1966, 80 Stat. 941, which created the Department of Transportation. See section 1655 of Title 49, Transportation.

TERMINATION OF DISCHARGE PERMIT PROGRAM

No permits for discharges into navigable waters to be issued under this section after Oct. 18, 1972, and the discharge permit program to be carried out instead under section 1342 of this title, with applications under this section pending on Oct. 18, 1972, to be deemed applications for permits under section 1342, see section 1342 of this title.

EX. ORD. NO. 11574. ADMINISTRATION OF PERMIT PROGRAM

Ex. Ord. No. 11574, Dec. 23, 1970, 35 F.R. 19627, provided:

By virtue of the authority vested in me as President of the United States, and in furtherance of the purposes and policies of section 13 of the Act of March 3, 1899, c. 425, 30 Stat. 1152 (33 U.S.C. 407), the Federal Water Pollution Control Act, as amended (33 U.S.C. 1151 et. seq.), the Fish and Wildlife Coordination Act, as amended (16 U.S.C. 661-666c), and the National Environmental Policy Act, of 1969 (42 U.S.C. 4321-4347), it is hereby ordered as follows:

SECTION 1. *Refuse Act permit program.* The executive branch of the Federal Government shall implement a permit program under the aforesaid section 13 of the Act of March 3, 1899 [this section] (hereinafter referred to as "the Act") to regulate the discharge of pollutants and other refuse matter into the navigable waters of the United States or their tributaries and the placing of such matter upon their banks.

SEC. 2. *Responsibilities of Federal agencies.* (a)(1) The Secretary shall, after consultation with the Administrator respecting water quality matters, issue and amend, as appropriate, regulations, procedures, and instructions for receiving, processing, and evaluating applications for permits pursuant to the authority of the Act.

(2) The Secretary shall be responsible for granting, denying, conditioning, revoking, or suspending Refuse Act permits. In so doing:

(A) He shall accept findings, determinations, and interpretations which the Administrator shall make respecting applicable water quality standards and compliance with those standards in particular circumstances, including findings, determinations, and interpretations arising from the Administrator's review of State or interstate agency water quality certifications under section 21(b) of the Federal Water Pollution Control Act (84 Stat. 108) [section 1171(b) of this title]. A permit shall be denied where the certification prescribed by section 21(b) of the Federal Water Pollution Control Act [section 1171(b) of this title] has been denied, or where issuance would be inconsistent with any finding, determination, or interpretation of the Administrator pertaining to applicable water quality standards and considerations.

(B) In addition, he shall consider factors, other than water quality, which are prescribed by or may be lawfully considered under the Act or other pertinent laws.

(3) The Secretary shall consult with the Secretary of the Interior, with the Secretary of Commerce, with the Administrator, and with the head of the agency exercising administration over the wildlife resources of any affected State, regarding effects on fish and wildlife which are not reflected in water quality considerations, where the discharge for which a permit is sought impounds, diverts, deepens the channel, or otherwise controls or similarly modifies the stream or body of water into which the discharge is made.

(4) Where appropriate for a particular permit application, the Secretary shall perform such consultations respecting environmental amenities and values, other than those specifically referred to in paragraphs (2) and (3) above, as may be required by the National Environmental Policy Act of 1969 [section 4321 et seq. of title 42].

(b) The Attorney General shall conduct the legal proceedings necessary to enforce the Act and permits issued pursuant to it.

SEC. 3. *Coordination by Council on Environmental Quality.* (a) The Council on Environmental Quality shall coordinate the regulations, policies, and procedures of Federal agencies with respect to the Refuse Act permit program.

(b) The Council on Environmental Quality, after consultation with the Secretary, the Administrator, the Secretary of the Interior, the Secretary of Commerce, the Secretary of Agriculture, and the Attorney General, shall from time to time or as directed by the President advise the President respecting the implementation of the Refuse Act permit program, including recommendations regarding any measures which should be taken to improve its administration.

SEC. 4. *Definitions.* As used in this order, the word "Secretary" means the Secretary of the Army, and the word "Administrator" means the Administrator of the Environmental Protection Agency.

RICHARD NIXON.

CROSS REFERENCES

Flood control of Mississippi River, section as applicable, see section 702i of this title.

Regulations governing dumping into navigable waters—

Generally, see section 419 of this title.

Lake Michigan, see section 421 of this title.

New York Harbor, see sections 441 to 451 and 454 of this title.

Virgin Islands, applicability to, see section 1399 of Title 48, Territories and Insular Possessions.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 411, 412, 413, 418, 419, 702i of this title; title 48 section 1399.

§ 407a. Deposit of debris of mines and stamp works

In places where harbor-lines have not been established, and where deposits of debris of mines or stamp works can be made without injury to navigation, within lines to be established by the Secretary of the Army, said officer may, and is authorized to, cause such lines to be established; and within such lines such deposits may be made, under regulations to be from time to time prescribed by him.

(Aug. 5, 1886, ch. 929, § 2, 24 Stat. 329.)

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Secretary of the Army and other offices and officers of the Department of the Army under section 401 of this title to the extent that they relate generally to the location and clearances of bridges and causeways in the navigable waters of the United States were transferred to and vested in the Secretary of Transportation by Pub. L. 89-670, § 6(g)(6)(A), Oct. 15, 1966, 80 Stat. 941, which created the Department of Transportation. See section 1655 of Title 49, Transportation.

CROSS REFERENCES

Permission by Secretary of the Army for deposit of refuse matter within limits to be defined and under

conditions to be prescribed by him, see section 407 of this title.

§ 408. Taking possession of, use of, or injury to harbor or river improvements

It shall not be lawful for any person or persons to take possession of or make use of for any purpose, or build upon, alter, deface, destroy, move, injure, obstruct by fastening vessels thereto or otherwise, or in any manner whatever impair the usefulness of any sea wall, bulkhead, jetty, dike, levee, wharf, pier, or other work built by the United States, or any piece of plant, floating or otherwise, used in the construction of such work under the control of the United States, in whole or in part, for the preservation and improvement of any of its navigable waters or to prevent floods, or as boundary marks, tide gauges, surveying stations, buoys, or other established marks, nor remove for ballast or other purposes any stone or other material composing such works: *Provided*, That the Secretary of the Army may, on the recommendation of the Chief of Engineers, grant permission for the temporary occupation or use of any of the aforementioned public works when in his judgment such occupation or use will not be injurious to the public interest.

(Mar. 3, 1899, ch. 425, § 14, 30 Stat. 1152.)

Prior Provisions

Section superseded act Sept. 19, 1890, ch. 907, § 9, 26 Stat. 426, which prohibited persons taking possession of or using or injuring government works in navigable waters.

Act Aug. 14, 1876, ch. 267, § 3, 19 Stat. 139, penalizing persons injuring any pier breakwater, or other work of the United States for the improvement of rivers or harbors or navigation, was probably omitted from the Code as superseded by this section.

Change of Name

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

Transfer of Functions

All functions, powers, and duties of the Secretary of the Army and other offices and officers of the Department of the Army under section 401 of this title to the extent that they relate generally to the location and clearances of bridges and causeways in the navigable waters of the United States were transferred to and vested in the Secretary of Transportation by Pub. L. 89-670, § 6(g)(6)(A), Oct. 15, 1966, 80 Stat. 941, which created the Department of Transportation. See section 1655 of Title 49, Transportation.

Cross References

Flood control of Mississippi River, section as applicable, see section 702i of this title.

Virgin Islands, application of this section to, see section 1399 of Title 48, Territories and Insular Possessions.

Section Referred to in Other Sections

This section is referred to in sections 411, 412, 413, 418, 702i of this title; title 48 section 1399.

§ 409. Obstruction of navigable waters by vessels; floating timber; marking and removal of sunken vessels

It shall not be lawful to tie up or anchor vessels or other craft in navigable channels in such a manner as to prevent or obstruct the passage of other vessels or craft; or to voluntarily or carelessly sink, or permit or cause to be sunk, vessels or other craft in navigable channels; or to float loose timber and logs, or to float what is known as "sack rafts of timber and logs" in streams or channels actually navigated by steamboats in such manner as to obstruct, impede, or endanger navigation. And whenever a vessel, raft or other craft is wrecked and sunk in a navigable channel, accidentally or otherwise, it shall be the duty of the owner of such sunken craft to immediately mark it with a buoy or beacon during the day and a lighted lantern at night, and to maintain such marks until the sunken craft is removed or abandoned, and the neglect or failure of the said owner so to do shall be unlawful; and it shall be the duty of the owner of such sunken craft to commence the immediate removal of the same, and prosecute such removal diligently, and failure to do so shall be considered as an abandonment of such craft, and subject the same to removal by the United States as provided for in sections 411 to 416, 418, and 502 of this title.

(Mar. 3, 1899, ch. 425, § 15, 30 Stat. 1152.)

References in Text

Section 416 of this title, included within the references in text to sections 411 to 416 of this title, was omitted as covered by section 725a of Title 31, Money and Finance.

Cross References

Marking of obstructions, see section 86 of Title 14, Coast Guard.

Sunken craft, see section 86 of Title 14.

Virgin Islands, application of this section to, see section 1399 of Title 48, Territories and Insular Possessions.

Section Referred to in Other Sections

This section is referred to in sections 410, 411, 412, 413, 418 of this title; title 48 section 1399.

§ 410. Exception as to floating loose timber, sack rafts, etc.; violation of regulations; penalty

The prohibition contained in section 409 of this title against floating loose timber and logs, or sack rafts, so called, of timber and logs in streams or channels actually navigated by steamboats, shall not apply to any navigable river or waterway of the United States or any part thereof whereon the floating of loose timber and logs and sack rafts of timber and logs is the principal method of navigation. But such method of navigation on such river or waterway or part thereof shall be subject to the rules and regulations prescribed by the Secretary of the Army as provided in this section.

The Secretary of the Army shall have power, and he is authorized and directed to prescribe rules and regulations, which he may at any time modify, to govern and regulate the floating of loose timber and logs, and sack rafts, (so called) of timber and logs and other methods of navigation on the streams and waterways, or any thereof, of the character, as to navigation,

heretofore in this section described. The said rules and regulations shall be so framed as to equitably adjust conflicting interests between the different methods or forms of navigation; and the said rules and regulations shall be published at least once in such newspaper or newspapers of general circulation as in the opinion of the Secretary of the Army shall be best adapted to give notice of said rules and regulations to persons affected thereby and locally interested therein. And all modifications of said rules and regulations shall be similarly published. And such rules and regulations when so prescribed and published as to any such stream or waterway shall have the force of law, and any violation thereof shall be a misdemeanor, and every person convicted of such violation shall be punished by a fine of not exceeding $2,500 nor less than $500, or by imprisonment (in case of a natural person) for not less than thirty days nor more than one year, or by both such fine and imprisonment, in the discretion of the court: *Provided*, That the proper action to enforce the provisions of this section may be commenced before any magistrate, judge, or court of the United States, and such magistrate, judge, or court shall proceed in respect thereto as authorized by law in the case of crimes or misdemeanors committed against the United States.

The right to alter, amend, or repeal this section at any time is reserved.

(May 9, 1900, ch. 387, §§ 1–3, 31 Stat. 172; Oct. 17, 1968, Pub. L. 90–578, title IV, § 402(b)(2), 82 Stat. 1118.)

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

"Magistrate" was substituted for "commissioner" pursuant to Pub. L. 90–578, title IV, § 402(b)(2), Oct. 17, 1968, 82 Stat. 1118. See chapter 43 (§ 631 et seq.) of Title 28, Judiciary and Judicial Procedure.

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Secretary of the Army and other offices and officers of the Department of the Army under section 401 of this title to the extent that they relate generally to the location and clearances of bridges and causeways in the navigable waters of the United States were transferred to and vested in the Secretary of Transportation by Pub. L. 89–670, § 6(g)(6)(A), Oct. 15, 1966, 80 Stat. 941, which created the Department of Transportation. See section 1655 of Title 49, Transportation.

CROSS REFERENCES

Misdemeanor defined, see section 1 of Title 18, Crimes and Criminal Procedure.

§ 411. Penalty for wrongful deposit of refuse; use of or injury to harbor improvements, and obstruction of navigable waters generally

Every person and every corporation that shall violate, or that shall knowingly aid, abet, authorize, or instigate a violation of the provisions of sections 407, 408, and 409 of this title shall be guilty of a misdemeanor, and on conviction thereof shall be punished by a fine not exceeding $2,500 nor less than $500, or by imprisonment (in the case of a natural person) for not less than thirty days nor more than one year, or by both such fine and imprisonment, in the discretion of the court, one-half of said fine to be paid to the person or persons giving information which shall lead to conviction.

(Mar. 3, 1899, ch. 425, § 16, 30 Stat. 1153.)

CODIFICATION

Section is part of section 16 of act Mar. 3, 1899. The balance of such section, relating to liability of masters, pilots, and so forth and of vessels engaged in violations, is set out as section 412 of this title.

CROSS REFERENCES

Flood control of the Mississippi River, section as applicable, see section 702i of this title.

Misdemeanor defined, see section 1 of Title 18, Crimes and Criminal Procedure.

Virgin Islands, application of this section to, see section 1399 of Title 48, Territories and Insular Possessions.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 409, 412, 413, 418, 419, 702i of this title; title 48 section 1399.

§ 412. Liability of masters, pilots, etc., and of vessels engaged in violations

Any and every master, pilot, and engineer, or person or persons acting in such capacity, respectively, on board of any boat or vessel who shall knowingly engage in towing any scow, boat, or vessel loaded with any material specified in section 407 of this title to any point or place of deposit or discharge in any harbor or navigable water, elsewhere than within the limits defined and permitted by the Secretary of the Army, or who shall willfully injure or destroy any work of the United States contemplated in section 408 of this title, or who shall willfully obstruct the channel of any waterway in the manner contemplated in section 409 of this title, shall be deemed guilty of a violation of this Act, and shall upon conviction be punished as provided in section 411 of this title, and shall also have his license revoked or suspended for a term to be fixed by the judge before whom tried and convicted. And any boat, vessel, scow, raft, or other craft used or employed in violating any of the provisions of sections 407, 408, and 409 of this title shall be liable for the pecuniary penalties specified in section 411 of this title, and in addition thereto for the amount of the damages done by said boat, vessel, scow, raft, or other craft, which latter sum shall be placed to the credit of the appropriation for the improvement of the harbor or waterway in which the damage occurred, and said boat, vessel, scow, raft, or other craft may be proceeded against summarily by way of libel in any district court of the United States having jurisdiction thereof.

(Mar. 3, 1899, ch. 425, § 16, 30 Stat. 1153.)

REFERENCES IN TEXT

This Act, referred to in text, means act Mar. 3, 1899, ch. 425, 30 Stat. 1148, popularly known as the Rivers and Harbors Appropriation Act of 1899, which enacted sections 401, 403, 404, 406, 407, 408, 409, 411 to 416,

418, 502, 549, and 687 of this title, and amended section 686 of this title. For complete classification of this Act to the Code, see Tables volume.

CODIFICATION

Section is part of section 16 of act Mar. 3, 1899. The balance of such section, relating to penalties for the wrongful deposit of refuse, is set out as section 411 of this title.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Secretary of the Army and other offices and officers of the Department of the Army under section 401 of this title to the extent that they relate generally to the location and clearances of bridges and causeways in the navigable waters of the United States were transferred to and vested in the Secretary of Transportation by Pub. L. 89-670, § 6(g)(6)(A), Oct. 15, 1966, 80 Stat. 941, which created the Department of Transportation. See section 1655 of Title 49, Transportation.

CROSS REFERENCES

Flood control of the Mississippi River, section as applicable, see section 702i of this title.

Virgin Islands, application of this section to, see section 1399 of Title 48, Territories and Insular Possessions.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 409, 419, 702i of this title; title 48 section 1399.

§ 413. Duty of United States attorneys and other Federal officers in enforcement of provisions; arrest of offenders

The Department of Justice shall conduct the legal proceedings necessary to enforce the provisions of sections 401, 403, 404, 406, 407, 408, 409, 411, and 412 of this title; and it shall be the duty of United States attorneys to vigorously prosecute all offenders against the same whenever requested to do so by the Secretary of the Army or by any of the officials hereinafter designated, and it shall furthermore be the duty of said United States attorneys to report to the Attorney General of the United States the action taken by him against offenders so reported, and a transcript of such reports shall be transmitted to the Secretary of the Army by the Attorney General; and for the better enforcement of the said provisions and to facilitate the detection and bringing to punishment of such offenders, the officers and agents of the United States in charge of river and harbor improvements, and the assistant engineers and inspectors employed under them by authority of the Secretary of the Army, and the United States collectors of customs and other revenue officers shall have power and authority to swear out process, and to arrest and take into custody, with or without process, any person or persons who may commit any of the acts or offenses prohibited by the said sections, or who may violate any of the provisions of the same: *Provided*, That no person shall be arrested without process for any offense not committed in the presence of some one of the aforesaid officials: *And provided further*, That whenever any arrest is made under such sections, the person so arrested shall be brought forthwith before a magistrate, judge, or court of the United States for examination of the offenses alleged against him; and such magistrate, judge, or court shall proceed in respect thereto as authorized by law in case of crimes against the United States.

(Mar. 3, 1899, ch. 425, § 17, 30 Stat. 1153; June 25, 1948, ch. 646, § 1, 62 Stat. 909; Oct. 17, 1968, Pub. L. 90-578, title IV, § 402(b)(2), 82 Stat. 1118.)

PRIOR PROVISIONS

Act Sept. 19, 1890, ch. 907, § 11, 26 Stat. 455, was probably omitted from the Code as superseded by this section, or as rendered obsolete by act March 3, 1899, different sections of which superseded provisions of the act of 1890, the enforcement of which was provided for by section 11. It read as follows: "It shall be the duty of officers and agents having the supervision, on the part of the United States, of the works in progress for the preservation and improvement of said navigable waters, and, in their absence, of the United States collectors of customs and other revenue officers to enforce the provisions of this act by giving information to the district attorney of the United States for the district in which any violation of any provision of this act shall have been committed: *Provided*, That the provisions of this act shall not apply to Torch Lake, Houghton County, Michigan."

CHANGE OF NAME

Act June 25, 1948, eff. Sept. 1, 1948, substituted "United States attorneys" for "district attorneys of the United States" and "district attorneys". See section 541 of Title 28, Judiciary and Judicial Procedure, and Historical and Revision note thereunder.

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

"Magistrate" was substituted for "commissioner" pursuant to Pub. L. 90-578, title IV, § 402(b)(2), Oct. 17, 1968, 82 Stat. 1118. See chapter 43 (§ 631 et seq.) of Title 28, Judiciary and Judicial Procedure.

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Secretary of the Army and other offices and officers of the Department of the Army under section 401 of this title to the extent that they relate generally to the location and clearances of bridges and causeways in the navigable waters of the United States were transferred to and vested in the Secretary of Transportation by Pub. L. 89-670, § 6(g)(6)(A), Oct. 15, 1966, 80 Stat. 941, which created the Department of Transportation. See section 1655 of Title 49, Transportation.

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise in the Bureau of Customs of the Department of the Treasury to which appointments were required to be made by the President with the advice and consent of the Senate were ordered abolished with such offices to be terminated not later than Dec. 31, 1966, by Reorg. Plan No. 1 of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5,

Government Organization and Employees. All functions of the offices eliminated were already vested in the Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to title 5.

CROSS REFERENCES

Flood control of the Mississippi River, section as applicable, see section 702i of this title.

Regulations prescribed by the Secretary of the Army, see sections 1, 419, and 499 of this title.

Virgin Islands, application of this section to, see section 1399 of Title 48, Territories and Insular Possessions.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1, 409, 412, 418, 419, 499, 702i of this title; title 48 section 1399.

§ 414. Removal by Secretary of the Army of sunken water craft generally

Whenever the navigation of any river, lake, harbor, sound, bay, canal, or other navigable waters of the United States shall be obstructed or endangered by any sunken vessel, boat, water craft, raft, or other similar obstruction, and such obstruction has existed for a longer period than thirty days, or whenever the abandonment of such obstruction can be legally established in a less space of time, the sunken vessel, boat, water craft, raft, or other obstruction shall be subject to be broken up, removed, sold, or otherwise disposed of by the Secretary of the Army at his discretion, without liability for any damage to the owners of the same: *Provided,* That in his discretion, the Secretary of the Army may cause reasonable notice of such obstruction of not less than thirty days, unless the legal abandonment of the obstruction can be established in a less time, to be given by publication, addressed "To whom it may concern," in a newspaper published nearest to the locality of the obstruction, requiring the removal thereof: *And provided also,* That the Secretary of the Army may, in his discretion, at or after the time of giving such notice, cause sealed proposals to be solicited by public advertisement, giving reasonable notice of not less than ten days, for the removal of such obstruction as soon as possible after the expiration of the above specified thirty days' notice, in case it has not in the meantime been so removed, these proposals and contracts, at his discretion, to be conditioned that such vessel, boat, water craft, raft, or other obstruction, and all cargo and property contained therein, shall become the property of the contractor, and the contract shall be awarded to the bidder making the proposition most advantageous to the United States: *Provided,* That such bidder shall give satisfactory security to execute the work: *Provided further,* That any money received from the sale of any such wreck, or from any contractor for the removal of wrecks, under this paragraph shall be covered into the Treasury of the United States.

(Mar. 3, 1899, ch. 425, § 19, 30 Stat. 1154.)

PRIOR PROVISIONS

Section superseded act June 14, 1880, ch. 211, § 4, 21 Stat. 197, and act Aug. 2, 1882, ch. 375, 22 Stat. 208, which required the Secretary of War to give notice to the persons interested in wrecks obstructing navigation of the purpose of the Secretary to remove the same unless such parties should do so, and authorized the Secretary to remove the same on the failure of the parties interested to do so, and to sell the same to the highest bidder, and also authorized the Secretary to dispose of any sunken vessel or cargo before removal.

Section also superseded act Sept. 19, 1890, ch. 907, § 8, 26 Stat. 454, which authorized the Secretary of War to remove wrecks remaining for more than two months.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Secretary of the Army and other offices and officers of the Department of the Army under section 401 of this title to the extent that they relate generally to the location and clearances of bridges and causeways in the navigable waters of the United States were transferred to and vested in the Secretary of Transportation by Pub. L. 89-670, § 6(g)(6)(A), Oct. 15, 1966, 80 Stat. 941, which created the Department of Transportation. See section 1655 of Title 49, Transportation.

For transfer of certain functions insofar as they pertain to the Air Force, and to the extent that they were not previously transferred to the Secretary of the Air Force and Department of the Air Force from the Secretary of the Army and Department of the Army, see Secretary of Defense Transfer Order No. 40 [App. A(57)], July 22, 1949.

CROSS REFERENCES

Marking of obstructions, see section 86 of Title 14, Coast Guard.

Virgin Islands, application of this section to, see section 1399 of Title 48, Territories and Insular Possessions.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 409, 412, 415, 418 of this title; title 48 section 1399.

§ 415. Summary removal of water craft obstructing navigation

Under emergency, in the case of any vessel, boat, water craft, or raft, or other similar obstruction, sinking or grounding, or being unnecessarily delayed in any Government canal or lock, or in any navigable waters mentioned in section 414 of this title, in such manner as to stop, seriously interfere with, or specially endanger navigation, in the opinion of the Secretary of the Army, or any agent of the United States to whom the Secretary may delegate proper authority, the Secretary of the Army or any such agent shall have the right to take immediate possession of such boat, vessel, or other water craft, or raft, so far as to remove or to destroy it and to clear immediately the canal, lock, or navigable waters aforesaid of the obstruction thereby caused, using his best judgment to prevent any unnecessary injury; and no one shall interfere with or prevent such removal or destruction: *Provided,* That the officer or agent charged with the removal or destruction of an obstruction under this section may in his discretion give notice in writing to the owners

of any such obstruction requiring them to remove it: *And provided further,* That the expense of removing any such obstruction as aforesaid shall be a charge against such craft and cargo; and if the owners thereof fail or refuse to reimburse the United States for such expense within thirty days after notification, then the officer or agent aforesaid may sell the craft or cargo, or any part thereof that may not have been destroyed in removal, and the proceeds of such sale shall be covered into the Treasury of the United States.

(Mar. 3, 1899, ch. 425, § 20, 30 Stat. 1154.)

CODIFICATION

Section contains part of section 20 of act Mar. 3, 1899. Another portion of that section appropriating money necessary to execute its provisions was formerly set out as section 416 of this title. See now section 725a of Title 31, Money and Finance.

Section 20 of act Mar. 3, 1899, also contained a repealing clause with a proviso saving pending actions and rights of actions. It was amended by act Feb. 20, 1900, ch. 23, § 3, 31 Stat. 32, and again amended by act June 13, 1902, ch. 1079, § 12, 32 Stat. 375, by adding another proviso which now constitutes section 418 of this title.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Secretary of the Army and other offices and officers of the Department of the Army under section 401 of this title to the extent that they relate generally to the location and clearances of bridges and causeways in the navigable waters of the United States were transferred to and vested in the Secretary of Transportation by Pub. L. 89-670, § 6(g)(6)(A), Oct. 15, 1966, 80 Stat. 941, which created the Department of Transportation. See section 1655 of Title 49, Transportation.

For transfer of certain functions insofar as they pertain to the Air Force, and to the extent that they were not previously transferred to the Secretary of the Air Force and Department of the Air Force from the Secretary of the Army and Department of the Army, see Secretary of Defense Transfer Order No. 40 [App. A(57)], July 22, 1949.

CROSS REFERENCES

Virgin Islands, application of this section to, see section 1399 of Title 48, Territories and Insular Possessions.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 409, 412, 418 of this title; title 48 section 1399.

§ 416. Omitted

CODIFICATION

Section, act Mar. 3, 1899, ch. 425, § 20, 30 Stat. 1155, related to appropriations for removal of sunken water craft, and was omitted as covered by section 725a of Title 31, Money and Finance.

§ 417. Expenses of investigations by Department of the Army

Expenses incurred by the Engineer Department of the Department of the Army in all investigations, inspections, hearings, reports, service of notice, or other action incidental to examination of plans or sites of bridges or other structures built or proposed to be built in or over navigable waters, or to examinations into alleged violations of laws for the protection and preservation of navigable waters, or to the establishment or marking of harbor lines, shall be payable from any funds which may be available for the improvement, maintenance, operation, or care of the waterways or harbors affected, or if such funds are not available in sums judged by the Chief of Engineers to be adequate, then from any funds available for examinations, surveys, and contingencies of rivers and harbors.

(Mar. 3, 1905, ch. 1482, § 6, 33 Stat. 1148.)

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Secretary of the Army and other offices and officers of the Department of the Army under section 401 of this title to the extent that they relate generally to the location and clearances of bridges and causeways in the navigable waters of the United States were transferred to and vested in the Secretary of Transportation by Pub. L. 89-670, § 6(g)(6)(A), Oct. 15, 1966, 80 Stat. 941, which created the Department of Transportation. See section 1655 of Title 49, Transportation.

§ 418. Provisions for protection of New York Harbor unaffected

Nothing contained in sections 401, 403, 404, 406, 407, 408, 409, 411 to 416, and 502 of this title shall be construed as repealing, modifying, or in any manner affecting the provisions of subchapter III of this chapter.

(Mar. 3, 1899, ch. 425 § 20, 30 Stat. 1154; Feb. 20, 1900, ch. 23, § 3, 31 Stat. 32; June 13, 1902, ch. 1079, § 12, 32 Stat. 375.)

REFERENCES IN TEXT

Section 416 of this title, included within the references in text to sections 411 to 416 of this title, was omitted as covered by section 725a of Title 31, Money and Finance.

Subchapter III (§ 441 et seq.) of this chapter, referred to in text, was in the original a reference to the Act of June 29, 1888, as amended by section 3 of the river and harbor Act of August 18, 1894.

CODIFICATION

Section was enacted as part of section 20 of act Mar. 3, 1899. See Codification note set out under section 415 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 409, 412 of this title; title 48 section 1399.

§ 419. Regulation by Secretary governing transportation and dumping of dredgings, refuse, etc., into navigable waters; oyster lands; appropriations

The Secretary of the Army is authorized and empowered to prescribe regulations to govern the transportation and dumping into any navigable water, or waters adjacent thereto, of dredgings, earth, garbage, and other refuse materials of every kind or description, whenever in his judgment such regulations are required in the interest of navigation. Such regulations shall be posted in conspicuous and appropriate places for the information of the public; and every person or corporation which shall violate the said regulations, or any of them, shall be deemed guilty of a misdemeanor and shall be subject to the penalties prescribed in sections 411 and 412 of this title, for violation of the provisions of section 407 of this title: *Provided*, That any regulations made in pursuance hereof may be enforced as provided in section 413 of this title, the provisions whereof are made applicable to the said regulations: *Provided further*, That this section shall not apply to any waters within the jurisdictional boundaries of any State which are now or may hereafter be used for the cultivation of oysters under the laws of such State, except navigable channels which have been or may hereafter be improved by the United States, or to be designated as navigable channels by competent authority, and in making such improvements of channels, the material dredged shall not be deposited upon any ground in use in accordance with the laws of such State for the cultivation of oysters, except in compliance with said laws: *And provided further*, That any expense necessary in executing this section may be paid from funds available for the improvement of the harbor or waterway, for which regulations may be prescribed, and in case no such funds are available the said expense may be paid from appropriations made by Congress for examinations, surveys, and contingencies of rivers and harbors.

(Mar. 3, 1905, ch. 1482, § 4, 33 Stat. 1147.)

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Secretary of the Army and other offices and officers of the Department of the Army under section 401 of this title to the extent that they relate generally to the location and clearances of bridges and causeways in the navigable waters of the United States were transferred to and vested in the Secretary of Transportation by Pub. L. 89-670, § 6(g)(6)(A), Oct. 15, 1966, 80 Stat. 941, which created the Department of Transportation. See section 1655 of Title 49, Transportation.

CROSS REFERENCES

Misdemeanor defined, see section 1 of Title 18, Crimes and Criminal Procedure.

§ 419a. Management practices to extend capacity and useful life of dredged material disposal areas

The Secretary of the Army, acting through the Chief of Engineers, shall utilize and encourage the utilization of such management practices as he determines appropriate to extend the capacity and useful life of dredged material disposal areas such that the need for new dredged material disposal areas is kept to a minimum. Management practices authorized by this section shall include, but not be limited to, the construction of dikes, consolidation and dewatering of dredged material, and construction of drainage and outflow facilities.

(Pub. L. 94-587, § 148, Oct. 22, 1976, 90 Stat. 2931.)

§ 420. Piers and cribs on Mississippi and St. Croix Rivers

The owners of sawmills on the Mississippi River and the Saint Croix River in the States of Wisconsin and Minnesota are authorized and empowered under the direction of the Secretary of the Army, to construct piers or cribs in front of their mill property on the banks of the river, for the protection of their mills and rafts against damage by floods and ice: *Provided, however*, That the piers or cribs so constructed shall not interfere with or obstruct the navigation of the river. And in case any pier or crib constructed under authority of this section shall at any time, and for any cause, be found to obstruct the navigation of the river, the Government expressly reserves the right to remove or direct the removal of it, at the cost and expense of the owners thereof.

(R.S. § 5254; May 1, 1882, ch. 112, 22 Stat. 52.)

CODIFICATION

R.S. § 5254 is from act Mar. 3, 1873, ch. 278, 17 Stat. 606.

AMENDMENTS

1882—Act May 1, 1882, added reference to the Saint Croix River in the States of Wisconsin and Minnesota.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Secretary of the Army and other offices and officers of the Department of the Army under section 401 of this title to the extent that they relate generally to the location and clearances of bridges and causeways in the navigable waters of the United States were transferred to and vested in the Secretary of Transportation by Pub. L. 89-670, § 6(g)(6)(A), Oct. 15, 1966, 80 Stat. 941, which created the Department of Transportation. See section 1655 of Title 49, Transportation.

§ 421. Deposit of refuse, etc., in Lake Michigan near Chicago

It shall not be lawful to throw, discharge, dump, or deposit, or cause, suffer, or procure, to be thrown, discharged, dumped, or deposited, any refuse matter of any kind or description whatever other than that flowing from streets and sewers and passing therefrom in a liquid state into Lake Michigan, at any point opposite or in front of the county of Cook, in the State of Illinois, or the county of Lake in the State of Indiana, within eight miles from the shore of said lake, unless said material shall be placed inside of a breakwater so arranged as not to permit the escape of such refuse material into the body of the lake and cause contamination thereof; and no officer of the Government shall dump or cause or authorize to be dumped any material contrary to the provisions of this section: *Provided, however,* That the provisions of this section shall not apply to work in connection with the construction, repair, and protection of breakwaters and other structures built in aid of navigation, or for the purpose of obtaining water supply. Any person violating any provision of this section shall be guilty of a misdemeanor, and on conviction thereof shall be fined for each offense not exceeding $1,000.

(June 23, 1910, ch. 359, 36 Stat. 593.)

Codification

Section is from act June 23, 1910, popularly known as the Rivers and Harbors Act of 1910.

Cross References

Discharges of pollutants into the navigable waters subject to this section to be regulated pursuant to Federal Water Pollution Control Act except as to effect on navigation and anchorage, see section 1371 of this title.

Misdemeanor defined, see section 1 of Title 18, Crimes and Criminal Procedure.

Section Referred to in Other Sections

This section is referred to in section 1371 of this title.

§ 422. Modification and extension of harbor lines at Chicago

The Secretary of the Army is authorized, in his discretion, to modify and extend harbor lines in front of the city of Chicago in such manner as to permit park extension work which may be desired by the municipal authorities, including the changing and widening of the southern entrance to the Chicago Harbor.

(Aug. 26, 1912, ch. 408, § 5, 37 Stat. 626.)

Codification

Section is from act Aug. 26, 1912, popularly known as the Deficiency Appropriation Act for 1912.

Change of Name

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

Transfer of Functions

All functions, powers, and duties of the Secretary of the Army and other offices and officers of the Department of the Army under section 401 of this title to the extent that they relate generally to the location and clearances of bridges and causeways in the navigable waters of the United States were transferred to and vested in the Secretary of Transportation by Pub. L. 89-670, § 6(g)(6)(A), Oct. 15, 1966, 80 Stat. 941, which created the Department of Transportation. See section 1655 of Title 49, Transportation.

§ 423. Establishment of pierhead and bulkhead lines in Wilmington Harbor, California

The Secretary of the Army is authorized to fix and establish pierhead and bulkhead lines, either or both, in the inner harbor of San Pedro, otherwise known as Wilmington Harbor, California, beyond which no piers, wharves, bulkheads, or other works shall be extended or deposits made except under such regulations as shall be prescribed from time to time by the Secretary of the Army.

(Mar. 26, 1908, No. 14, 35 Stat. 569.)

Change of Name

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

Transfer of Functions

All functions, powers, and duties of the Secretary of the Army and other offices and officers of the Department of the Army under section 401 of this title to the extent that they relate generally to the location and clearances of bridges and causeways in the navigable waters of the United States were transferred to and vested in the Secretary of Transportation by Pub. L. 89-670, § 6(g)(6)(A), Oct. 15, 1966, 80 Stat. 941, which created the Department of Transportation. See section 1655 of Title 49, Transportation.

Cross References

Establishment of harbor lines generally, see section 404 of this title.

§ 424. Establishment of pierhead or bulkhead lines in Newport Harbor, California

The Secretary of the Army is authorized and directed to fix and establish pierhead and bulkhead lines, either or both, at Newport Harbor, California, in accordance with plan dated United States Engineer Office, Los Angeles, California, March 25, 1913, and entitled "Newport Bay, California", showing harbor lines, beyond which no piers, wharfs, bulkheads, or other works shall be extended or deposit made, except under such regulations as shall be prescribed from time to time by the Secretary of the Army.

(July 27, 1916, ch. 260, § 3, 39 Stat. 411.)

Codification

Section is from act July 27, 1916, popularly known as the Rivers and Harbors Appropriation Act of 1916.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Secretary of the Army and other offices and officers of the Department of the Army under section 401 of this title to the extent that they relate generally to the location and clearances of bridges and causeways in the navigable waters of the United States were transferred to and vested in the Secretary of Transportation by Pub. L. 89-670, § 6(g)(6)(A), Oct. 15, 1966, 80 Stat. 941, which created the Department of Transportation. See section 1655 of Title 49, Transportation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 424a of this title.

§ 424a. Modification of harbor lines in Newport Harbor, California

The Secretary of the Army is authorized to modify from time to time, the harbor lines at Newport Harbor, California, established in pursuance of section 424 of this title: *Provided*, That in his opinion such modification will not injuriously affect the interests of navigation.

(Mar. 3, 1925, ch. 467, § 10, 43 Stat. 1197.)

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Secretary of the Army and other offices and officers of the Department of the Army under section 401 of this title to the extent that they relate generally to the location and clearances of bridges and causeways in the navigable waters of the United States were transferred to and vested in the Secretary of Transportation by Pub. L. 89-670, § 6(g)(6)(A), Oct. 15, 1966, 80 Stat. 941, which created the Department of Transportation. See section 1655 of Title 49, Transportation.

§ 425. Omitted

CODIFICATION

Section, act June 7, 1924, ch. 316, § 9, 43 Stat. 606, directed Secretary of War to investigate depositing of polluting substances into navigable streams and report the results to Congress not later than two years from June 7, 1924.

§ 426. Investigations concerning erosion of shores of coastal and lake waters

The Chief of Engineers of the United States Army, under the direction of the Secretary of the Army, is authorized and directed to cause investigations and studies to be made in cooperation with the appropriate agencies of the various States on the Atlantic, Pacific, and gulf coasts and on the Great Lakes, and of the States of Alaska and Hawaii, the Commonwealth of Puerto Rico, and the possessions of the United States, with a view to devising effective means of preventing erosion of the shores of coastal and lake waters by waves and currents; and any expenses incident and necessary thereto may be paid from funds appropriated for General Investigations, Civil Functions, Department of the Army: *Provided*, That the Department of the Army may release to the appropriate cooperating agencies information obtained by these investigations and studies prior to the formal transmission of reports to Congress: *Provided further*, That no money shall be expended under authority of this section in any State which does not provide for cooperation with the agents of the United States and contribute to the project such funds or services as the Secretary of the Army may deem appropriate and require; that there shall be organized under the Chief of Engineers, United States Army, a Board of seven members, of whom four shall be officers of the Corps of Engineers and three shall be civilian engineers selected by the Chief of Engineers with regard to their special fitness in the field of beach erosion and shore protection. The Board will furnish such technical assistance as may be directed by the Chief of Engineers in the conduct of such studies as may be undertaken and will review the reports of the investigations made. In the consideration of such studies as may be referred to the Board by the Chief of Engineers, the Board shall, when it considers it necessary and with the sanction of the Chief of Engineers, make, as a board or through its members, personal examination of localities under investigation: *Provided further*, That the civilian members of the Board may be paid at rates not to exceed $100 a day for each day of attendance at Board meetings, not to exceed thirty days per annum, in addition to the traveling and other necessary expenses connected with their duties on the Board in accordance with the provisions of section 5703 of title 5.

(July 3, 1930, ch. 847, § 2, 46 Stat. 945; July 14, 1960, Pub. L. 86-645, title I, § 103, 74 Stat. 484.)

REFERENCES IN TEXT

The Board, referred to in text, means the Beach Erosion Board, which was abolished by Pub. L. 88-172, § 1, Nov. 7, 1963, 77 Stat. 304. See note set out below.

CODIFICATION

"Section 5703 of title 5" was substituted for "section 5 of the Administrative Expenses Act of 1946, as amended (5 U.S.C. 73b-2)", on authority of section 7(b) of Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 631, section 1 of which enacted Title 5, Government Organization and Employees.

AMENDMENTS

1960—Pub. L. 86-645, among other changes, substituted provisions requiring the three civilian members of the Board to be civilian engineers selected by the Chief of Engineers with regard to their special fitness in the field of beach erosion and shore protection for provisions which required the civilian members to be selected with regard to their special fitness from among the State agencies cooperating with the Department of the Army, and provisions authorizing

payment of civilian members at rates not to exceed $100 a day, for not more than 30 days per annum, for provisions which required the States to pay the salaries of the civilian members.

ABOLITION OF THE BEACH EROSION BOARD

Pub. L. 88-172, § 1, Nov. 7, 1963, 77 Stat. 304, provided in part: "That the Board established by section 2 of the River and Harbor Act approved July 3, 1930, as amended (33 U.S.C. 426), referred to as the Beach Erosion Board, is hereby abolished." For the transfer of functions of the Beach Erosion Board to the Coastal Engineering Research Center and the Board of Engineers for Rivers and Harbors, see sections 426-1 and 426-3 of this title.

APPLICATION OF EXISTING LAW TO SURVEYS RELATING TO SHORE PROTECTION

Pub. L. 87-874, § 103(b), Oct. 23, 1962, 76 Stat. 1179, provided that: "All provisions of existing law relating to surveys of rivers and harbors shall apply to surveys relating to shore protection and section 2 of the River and Harbor Act approved July 3, 1930, as amended (33 U.S.C. 426), is modified to the extent inconsistent herewith."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 426a, 426c of this title.

§ 426-1. Coastal Engineering Research Center; establishment; powers and functions

There shall be established under the Chief of Engineers, United States Army, a Coastal Engineering Research Center which, except as hereinafter provided in section 426-3 of this title, shall be vested with all the functions of the Beach Erosion Board, including the authority to make general investigations as provided in section 426a of this title, and such additional functions as the Chief of Engineers may assign.

(Pub. L. 88-172, § 1, Nov. 7, 1963, 77 Stat. 304.)

CODIFICATION

Section was enacted as part of section 1 of Pub. L. 88-172. The remainder of said section 1, abolishing the Beach Erosion Board, is classified as a note under section 426 of this title.

ABOLITION OF THE BEACH EROSION BOARD

Section 1 of Pub. L. 88-172 provided in part for the abolition of the Beach Erosion Board, and is set out as a note under section 426 of this title. For the transfer of certain functions of said Board to the Board of Engineers for Rivers and Harbors, see section 426-3 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 426-2 of this title.

§ 426-2. Board on Coastal Engineering Research

The functions of the Coastal Engineering Research Center established by section 426-1 of this title, shall be conducted with the guidance and advice of a Board on Coastal Engineering Research, constituted by the Chief of Engineers in the same manner as the present Beach Erosion Board.

(Pub. L. 88-172, § 2, Nov. 7, 1963, 77 Stat. 305.)

COMPENSATION OF BOARD

Pub. L. 91-611, title I, § 105, Dec. 31, 1970, 84 Stat. 1819, provided that: "The civilian members of the Board on Coastal Engineering Research authorized by the Act of November 7, 1963 (33 U.S.C. 426-2) may be paid at rates not to exceed the daily equivalent of the rate for GS-18 for each day of attendance at Board meetings, not to exceed thirty days per year, in addition to the traveling and other necessary expenses connected with their duties on the Board in accordance with the provisions of 5 U.S.C. 5703(b), (d), and 5707."

ABOLITION OF THE BEACH EROSION BOARD

Section 1 of Pub. L. 88-172 provided in part for the abolition of the Beach Erosion Board, and is set out as a note under section 426 of this title. For transfer of functions of the Board to the Coastal Engineering Research Center and the Board of Engineers for Rivers and Harbors, see sections 426-1 and 426-3 of this title.

§ 426-3. Transfer of functions of Beach Erosion Board

All functions of the Beach Erosion Board pertaining to review of reports of investigations made concerning erosion of the shores of coastal and lake waters, and the protection of such shores, are hereby transferred to the Board established by section 541 of this title, referred to as the Board of Engineers for Rivers and Harbors.

(Pub. L. 88-172, § 3, Nov. 7, 1963, 77 Stat. 305.)

ABOLITION OF THE BEACH EROSION BOARD

Section 1 of Pub. L. 88-172 provided in part for the abolition of the Beach Erosion Board, and is set out as a note under section 426 of this title. For transfer of certain functions of the Board to the Coastal Engineering Research Center, see section 426-1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 426-1 of this title.

§ 426a. Additional investigations concerning erosion of shores of coastal and lake waters; payment of costs; definition of shores

In addition to participating in cooperative investigations and studies with agencies of the various States as authorized in section 426 of this title, it shall be the duty of the Chief of Engineers, through the Coastal Engineering Research Center, to make general investigations with a view to preventing erosion of the shores of the United States by waves and currents and determining the most suitable methods for the protection, restoration, and development of beaches; and to publish from time to time such useful data and information concerning the erosion and protection of beaches and shore lines as the Center and to publish from time to time such useful data and information concerning the erosion and protection of beaches and shore lines as the Board may deem to be of value to the people of the United States. The cost of the general investigations authorized by sections 426a to 426d of this title shall be borne wholly by the United States. As used in said sections, the word "shores" includes the shore lines of the Atlantic and Pacific Oceans, the Gulf of Mexico, the Great Lakes, Lake Champlain, and estuaries and bays directly connected therewith.

(July 31, 1945, ch. 334, § 1, 59 Stat. 508; Nov. 7, 1963, Pub. L. 88-172, § 1, 77 Stat. 304.)

CODIFICATION

Coastal Engineering Research Center has been substituted for Beach Erosion Board pursuant to Pub. L. 88-172, § 1, providing in part for the abolition of the Beach Erosion Board, which is set out as a note under section 426 of this title. For transfer of investigatory functions of the Beach Erosion Board to the Coastal Engineering Research Center, see section 426-1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 426-1, 426d of this title.

§ 426b. Applicability of existing laws; projects referred to Board of Engineers for Rivers and Harbors

All provisions of existing law relating to examinations and surveys and to works of improvement of rivers and harbors shall apply, insofar as practicable, to examinations and surveys and to works of improvement relating to shore protection; except that all projects having to do with shore protection shall be referred for consideration and recommendation to the Board of Engineers for Rivers and Harbors.

(July 31, 1945, ch. 334, § 2, 59 Stat. 508; Nov. 7, 1963, Pub. L. 88-172, § 1, 77 Stat. 304.)

CODIFICATION

Provision for the referral of projects having to do with shore protection for consideration and recommendation to the Beach Erosion Board have been omitted as obsolete in view of the abolition of the Beach Erosion Board and the transfer of its review function to the Board of Engineers for Rivers and Harbors by Pub. L. 88-172, § 1. See section 426-3 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 426a, 426d of this title.

§ 426c. Report by Coastal Engineering Research Center

The Coastal Engineering Research Center, in making its report on any cooperative investigation and studies under the provisions of section 426 of this title, relating to shore protection work shall, in addition to any other matters upon which it may be required to report, state its opinion as to (a) the advisability of adopting the project; (b) what public interest, if any, is involved in the proposed improvement; and (c) what share of the expense, if any, should be borne by the United States.

(July 31, 1945, ch. 334, § 3, 59 Stat. 508; Nov. 7, 1963, Pub. L. 88-172, § 1, 77 Stat. 304.)

CODIFICATION

Coastal Engineering Research Center has been substituted for Beach Erosion Board pursuant to Pub. L. 88-172, § 1, providing in part for the abolition of the Beach Erosion Board, which is set out as a note under section 426 of this title. For transfer of investigatory functions of the Beach Erosion Board to the Coastal Engineering Research Center see section 426-1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 426a, 426d of this title.

§ 426d. Payment of expenses

Any expenses incident and necessary in the undertaking of the general investigations authorized by sections 426a to 426d of this title may be paid from funds appropriated prior to or after July 31, 1945, for examinations, surveys, and contingencies for rivers and harbors.

(July 31, 1945, ch. 334, § 4, 59 Stat. 508.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 426a of this title.

§ 426e. Federal aid in protection of shores

(a) Declaration of policy

With the purpose of preventing damage to the shores of the United States, its Territories and possessions and promoting and encouraging the healthful recreation of the people, it is declared to be the policy of the United States, subject to the following provisions of sections 426e to 426h of this title to assist in the construction, but not the maintenance, of works for the restoration and protection against erosion, by waves and currents, of the shores of the United States, its Territories and possessions.

(b) Federal contribution; maximum amount; exceptions

The Federal contribution in the case of any project referred to in subsection (a) of this section shall not exceed one-half of the cost of the project, and the remainder shall be paid by the State, municipality, or other political subdivision in which the project is located, except that (1) the costs allocated to the restoration and protection of Federal property shall be borne fully by the Federal Government, (2) Federal participation in the cost of a project for restoration and protection of State, county, and other publicly owned shore parks and conservation areas may be, in the discretion of the Chief of Engineers, not more than 70 per centum of the total cost exclusive of land costs, when such areas: Include a zone which excludes permanent human habitation; include but are not limited to recreational beaches; satisfy adequate criteria for conservation and development of the natural resources of the environment; extend landward a sufficient distance to include, where appropriate, protective dunes, bluffs, or other natural features which serve to protect the uplands from damage; and provide essentially full park facilities for appropriate public use, all of which shall meet with the approval of the Chief of Engineers, and (3) Federal participation in the cost of a project providing hurricane protection may be, in the discretion of the Secretary of the Army, acting through the Chief of Engineers, not more than 70 per centum of the total cost exclusive of land costs.

(c) Periodic beach nourishment; definition of "construction"

When in the opinion of the Chief of Engineers the most suitable and economical remedial measures would be provided by periodic beach nourishment, the term "construction" may be construed for the purposes of sections 426e to 426h of this title to include the deposit

of sand fill at suitable intervals of time to furnish sand supply to project shores for a length of time specified by the Chief of Engineers.

(d) Shores other than public

Shores other than public will be eligible for Federal assistance if there is benefit such as that arising from public use or from the protection of nearby public property or if the benefits to those shores are incidental to the project, and the Federal contribution to the project shall be adjusted in accordance with the degree of such benefits.

(e) Authorized plans

No Federal contributions shall be made with respect to a project under sections 426e to 426h of this title unless the plan therefor shall have been specifically adopted and authorized by Congress after investigation and study by the Coastal Engineering Research Center under the provisions of section 426 of this title as amended and supplemented, or, in the case of a small project under section 426g of this title, unless the plan therefor has been approved by the Chief of Engineers.

(Aug. 13, 1946, ch. 960, § 1, 60 Stat. 1056; July 28, 1956, ch. 768, 70 Stat. 702; Oct. 23, 1962, Pub. L. 87-874, title I, § 103(a)(1)-(3), 76 Stat. 1178; Nov. 7, 1963, Pub. L. 88-172, § 1, 77 Stat. 304; Dec. 31, 1970, Pub. L. 91-611, title II, § 208, 84 Stat. 1829.)

CODIFICATION

Coastal Engineering Research Center, referred to in subsec. (e), has been substituted for Beach Erosion Board pursuant to Pub. L. 88-172, § 1, providing in part for the abolition of the Beach Erosion Board and for transfer of functions of the Beach Erosion Board to the Coastal Engineering Research Center. See section 426-1 of this title.

AMENDMENTS

1970—Subsec. (b). Pub. L. 91-611 provided for designation of existing provisions as cls. (1) and (2) by insertion of "(1)" after "except that" and substitution of "(2)" for "and, further, that" and added cl. (3).

1962—Subsec. (b). Pub. L. 87-874, § 103(a)(1), (2), increased the maximum limit on the amount of Federal contributions from one-third to one-half of the project cost, provided that costs for restoration and protection of Federal property shall be borne fully by the Federal Government, and that costs for restoration and protection of State, county and other publicly owned shore parks and conservation areas may be borne by the Federal Government up to not more than 70 per centum, exclusive of land costs, when such areas include a zone which excludes permanent human habitation, include recreational beaches, satisfy criteria for conservation and development of natural resources, extend landward enough to include natural features to protect the uplands, and provide essentially full park facilities for public use, all of which meet with the approval of the Chief of Engineers.

Subsec. (e). Pub. L. 87-874, § 103(a)(3), required approval of plans by the Chief of Engineers in the case of a small project under section 426g of this title.

1956—Act July 28, 1956, extended assistance to privately owned shores, to include shores of Territories and possessions, to substitute the term "restoration" for the term "improvement", to define "construction", and to eliminate provisions which authorized Federal aid toward the repair and protection of seawalls constructed by political subdivisions to protect important public highways.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 426g, 426h of this title.

§ 426f. Payments to States, etc.

The Secretary of the Army is authorized to reimburse local interests for work done by them, after initiation of the survey studies which form the basis for the project, on authorized projects which individually do not exceed $1,000,000 in total cost: *Provided*, That the work which may have been done on the projects is approved by the Chief of Engineers as being in accordance with the authorized projects: *Provided further*, That such reimbursement shall be subject to appropriations applicable thereto or funds available therefor and shall not take precedence over other pending projects of higher priority for improvements.

(Aug. 13, 1946, ch. 960, § 2, 60 Stat. 1056; July 28, 1956, ch. 768, 70 Stat. 703; Oct. 23, 1962, Pub. L. 87-874, title I, § 103(a)(4), 76 Stat. 1178.)

AMENDMENTS

1962—Pub. L. 87-874 substituted provisions which authorize the Secretary of the Army to reimburse local interests for work done on authorized projects which individually do not exceed $1,000,000 in cost, and provide that such reimbursement shall be subject to applicable appropriations or available funds and not take priority over pending projects of higher priority, for provisions which authorized the Chief of Engineers to cause to be paid to the political subdivision involved the amount authorized by Congress.

1956—Act July 28, 1956, substituted "or other political subdivision involved" for "or political subdivision".

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Secretary of the Army and other offices and officers of the Department of the Army under section 401 of this title to the extent that they relate generally to the location and clearances of bridges and causeways in the navigable waters of the United States were transferred to and vested in the Secretary of Transportation by Pub. L. 89-670, § 6(g)(6)(A), Oct. 15, 1966, 80 Stat. 941, which created the Department of Transportation. See section 1655 of Title 49, Transportation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 426e, 426h of this title; title 42 section 1962d-5a.

§ 426g. Authorization of small projects not specifically authorized; expenditures; local cooperation; work to be complete; exceptions

The Secretary of the Army is authorized to undertake construction of small shore and beach restoration and protection projects not specifically authorized by Congress, which otherwise comply with section 426e of this title, when he finds that such work is advisable, and he is further authorized to allot from any ap-

propriations hereafter made for civil works, not to exceed $25,000,000 for any one fiscal year for the Federal share of the costs of construction of such projects: *Provided,* That not more than $1,000,000 shall be allotted for this purpose for any single project and the total amount allotted shall be sufficient to complete the Federal participation in the project under this section including periodic nourishment as provided for under section 426e(c) of this title: *Provided further,* That the provisions of local cooperation specified in section 426e of this title shall apply: *And provided further,* That the work shall be complete in itself and shall not commit the United States to any additional improvement to insure its successful operation, except for participation in periodic beach nourishment in accordance with section 426e(c) of this title, and as may result from the normal procedure applying to projects authorized after submission of survey reports.

(Aug. 13, 1946, ch. 960, § 3, 60 Stat. 1056; July 28, 1956, ch. 768, 70 Stat. 703; Oct. 23, 1962, Pub. L. 87-874, title I, § 103(a)(4), 76 Stat. 1178; Oct. 27, 1965, Pub. L. 89-298, title III, § 310(b), 79 Stat. 1095; Dec. 31, 1970, Pub. L. 91-611, title I, § 112(b), 84 Stat. 1821.)

AMENDMENTS

1970—Pub. L. 91-611 increased authorized annual allotment for Federal share of project construction costs from $10,000,000 to $25,000,000 and the limitation on allotment for any single project from $500,000 to $1,000,000.

1965—Pub. L. 89-298 increased authorized annual allotment for Federal share of project construction costs from $3,000,000 to $10,000,000 and the limitation on allotment for any single project from $400,000 to $500,000.

1962—Pub. L. 87-874 substituted provisions which authorize the Secretary of the Army to undertake small shore and beach projects not specifically authorized by Congress, which otherwise comply with section 426e of this title, and to allot from any civil works appropriations hereafter made, an amount not to exceed $3,000,000 for the Federal share of such projects in any one fiscal year, provide that no such single project shall be allotted more than $400,000, including periodic nourishment, that the provisions of local cooperation shall apply, and that the work shall be complete and not commit the United States to any additional improvement except for periodic beach nourishment, and as may result from procedure applying to projects authorized after submission of survey reports, for provisions which permitted the Chief of Engineers to make advance payments, not exceeding the United States pro rata part of the value of the labor and materials actually put in, and to undertake construction of restoration and protective works under sections 426e to 426h of this title upon the request of, and contribution of funds by, the interested political subdivision.

1956—Act July 28, 1956, substituted "restoration and protective works under sections 426e to 426h of this title" for "improvement and protective works".

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Secretary of the Army and other offices and officers of the Department of the Army under section 401 of this title to the extent that they relate generally to the location and clearances of bridges and causeways in the navigable waters of the United States were transferred to and vested in the Secretary of Transportation by Pub. L. 89-670, § 6(g)(6)(A), Oct. 15, 1966, 80 Stat. 941, which created the Department of Transportation. See section 1655 of Title 49, Transportation.

PROJECTS UNDER CONTRACT FOR CONSTRUCTION ON DECEMBER 31, 1970

Section 112(c) of Pub. L. 91-611 provided that: "The amendments made by this section [to this section and section 577(a), (b) of this title] shall not apply to any project under contract for construction on the date of enactment of this Act [Dec. 31, 1970]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 426e, 426h of this title.

§ 426h. Definition

As used in sections 426e to 426h of this title, the word "shores" includes all the shorelines of the Atlantic and Pacific Oceans, the Gulf of Mexico, the Great Lakes, and lakes, estuaries, and bays directly connected therewith.

(Aug. 13, 1946, ch. 960, § 4, 60 Stat. 1057; July 28, 1956, ch. 768, 70 Stat. 703.)

AMENDMENTS

1956—Act July 28, 1956, reenacted section without change.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 426e of this title.

§ 426i. Shore damage prevention; investigation, study, and construction of projects; Federal assumption of cost; limitation on estimated first cost of construction

The Secretary of the Army, acting through the Chief of Engineers, is authorized to investigate, study, and construct projects for the prevention or mitigation of shore damages attributable to Federal navigation works. The cost of installing, operating, and maintaining such projects shall be borne entirely by the United States. No such project shall be constructed without specific authorization by Congress if the estimated first cost exceeds $1,000,000.

(Pub. L. 90-483, title I, § 111, Aug. 13, 1968, 82 Stat. 735.)

§ 426j. Placement on State beaches of sand dredged in constructing and maintaining navigation inlets and channels adjacent to such beaches

The Secretary of the Army, acting through the Chief of Engineers, is authorized upon request of the State, to place on the beaches of such State beach-quality sand which has been dredged in constructing and maintaining navigation inlets and channels adjacent to such beaches, if the Secretary deems such action to be in the public interest and upon payment of the increased cost thereof above the cost required for alternative methods of disposing of such sand.

(Pub. L. 94-587, § 145, Oct. 22, 1976, 90 Stat. 2931.)

§ 426k. Five year demonstration program to temporarily increase diversion of water from Lake Michigan at Chicago, Illinois

(a) Authorization of Secretary of the Army; purpose; amounts of increase; incremental accomplishment; effects on Illinois Waterway; responsibilities for development, implementation, and supervision

In order to alleviate water damage on the shoreline of Lake Michigan and others of the Great Lakes during periods of abnormally high water levels in the Great Lakes, and to improve the water quality of the Illinois Waterway, the Secretary of the Army, acting through the Chief of Engineers, is authorized to carry out a five-year demonstration program to temporarily increase the diversion of water from Lake Michigan at Chicago, Illinois, for the purpose of testing the practicability of increasing the average annual diversion from the present limit of three thousand two hundred cubic feet per second to ten thousand cubic feet per second. The demonstration program will increase the controllable diversion by various amounts calculated to raise the average annual diversion above three thousand two hundred cubic feet per second up to ten thousand cubic feet per second. The increase in diversion rate will be accomplished incrementally and will take into consideration the effects of such increase on the Illinois Waterway. The program will be developed by the Chief of Engineers in cooperation with the State of Illinois and the Metropolitan Sanitary District of Greater Chicago. The program will be implemented by the State of Illinois and the Metropolitan Sanitary District of Greater Chicago under the supervision of the Chief of Engineers.

(b) Establishment of monthly controllable diversion rates; average annual level of Lake Michigan and total diversion for succeeding accounting year

During the demonstration program a controllable diversion rate will be established for each month calculated to establish an annual average diversion from three thousand two hundred cubic feet per second to not more than ten thousand cubic feet per second. When the level of Lake Michigan is below its average level, the total diversion for the succeeding accounting year shall not exceed three thousand two hundred cubic feet per second on an annual basis. The average level of Lake Michigan will be based upon the average monthly level for the period from 1900 to 1975.

(c) River stages approaching bankfull conditions on Illinois Waterway or Mississippi River or further increased diversion adversely affecting St. Lawrence Seaway water levels: limitation on diversion

When river stages approach or are predicted to approach bankfull conditions at the established flood warning stations on the Illinois Waterway or the Mississippi River, or when further increased diversion of water from Lake Michigan would adversely affect water levels necessary for navigational requirements of the Saint Lawrence Seaway in its entirety throughout the Saint Lawrence River and Great Lakes-Saint Lawrence Seaway, water shall not be diverted directly from Lake Michigan at the Wilmette, O'Brien, or Chicago River control structures other than as necessary for navigational requirements.

(d) Additional study and demonstration program: determination of effects on Great Lakes levels and Illinois Waterway water quality and susceptibility to additional flooding and investigation of other adverse or beneficial impacts; report and recommendations to Congress

The Chief of Engineers shall conduct a study and a demonstration program to determine the effects of the increased diversion on the levels of the Great Lakes, on the water quality of the Illinois Waterway, and on the susceptibility of the Illinois Waterway to additional flooding. The study and demonstration program will also investigate any adverse or beneficial impacts which result from this section. The Chief of Engineers, at the end of five years after October 22, 1976, will submit to the Congress the results of this study and demonstration program including recommendations whether to continue this authority or to change the criteria stated in subsection (b) of this section.

(e) Definition of controllable diversion

For purposes of this section, controllable diversion is defined as that diversion at Wilmette, O'Brien, and Chicago River control structures which is not attributable to leakage or which is not necessary for navigational requirements.

(Pub. L. 94-587, § 166, Oct. 22, 1976, 90 Stat. 2934.)

§ 426*l*. Protection of Lake Ontario

(a) Plan for shoreline protection and beach erosion control; report to Congress

The Secretary of the Army, acting through the Chief of Engineers, is directed to develop a plan for shoreline protection and beach erosion control along Lake Ontario, and report on such plan to the Congress as soon as practicable. Such report shall include recommendations on measures of protection and proposals for equitable cost sharing, together with recommendations for regulating the level of Lake Ontario to assure maximum protection of the natural environment and to hold shoreline damage to a minimum.

(b) Minimization of damage and erosion to Lake Ontario shoreline

Until the Congress receives and acts upon the report required under subsection (a) of this section, all Federal agencies having responsibilities affecting the level of Lake Ontario shall, consistent with existing authority, make every effort to discharge such responsibilities in a manner so as to minimize damage and erosion to the shoreline of Lake Ontario.

(c) Authorization of appropriations

There is authorized to be appropriated to carry out this section $2,000,000.

(d) Short title

This section may be cited as the "Lake Ontario Protection Act of 1976."

(Pub. L. 94-587, § 180, Oct. 22, 1976, 90 Stat. 2939.)

§ 426m. Collection and removal of drift and debris from publicly maintained commercial boat harbors and adjacent land and water areas

(a) Congressional findings

The Congress finds that drift and debris on or in publicly maintained commercial boat harbors and the land and water areas immediately adjacent thereto threaten navigational safety, public health, recreation, and the harborfront environment.

(b) Responsibility of Secretary of the Army for development of projects; project undertakings exempt from specific Congressional approval

(1) The Secretary of the Army, acting through the Chief of Engineers, shall be responsible for developing projects for the collection and removal of drift and debris from publicly maintained commercial boat harbors and from land and water areas immediately adjacent thereto.

(2) The Secretary of the Army, acting through the Chief of Engineers, is authorized to undertake projects developed under paragraph (1) of this subsection without specific congressional approval when the total Federal cost for the project is less than $400,000.

(c) Federal share of costs; responsibility of non-federal interests in future project development to recover cost or repair sources

The Federal share of the cost of any project developed pursuant to subsection (b) of this section shall be two-thirds of the cost of the project. The remainder of such costs shall be paid by the State, municipality, or other political subdivision in which the project is to be located, except that any costs associated with the collections and removal of drift and debris from federally owned lands shall be borne by the Federal Government. Non-Federal interests in future project development under subsection (b) of this section shall be required to recover the full cost of drift or debris removal from any identified owner of piers or other potential sources of drift or debris, or to repair such sources so that they no longer create a potential source of drift or debris.

(d) Responsibility for providing lands, easements, and right of way necessary for projects; agreement to maintain projects and hold United States free from damages; regulation of project area following project completion; technical advice

Any State, municipality, or other political subdivision where any project developed pursuant to subsection (b) of this section is located shall provide all lands, easements, and right-of-way necessary for the project, including suitable access and disposal areas, and shall agree to maintain such projects and hold and save the United States free from any damages which may result from the non-Federal sponsor's performance of, or failure to perform, any of its required responsibilities of cooperation for the project. Non-Fededal [1] interest shall agree to regulate any project area following project completion so that such area will not become a future source of drift and debris. The Chief of Engineers shall provide technical advice to non-Federal interests on the implementation of this subsection.

(e) Definitions

For the purposes of this section—

(1) the term "drift" includes any buoyant material that, when floating in the navigable waters of the United States, may cause damage to a commercial or recreational vessel; and

(2) the term "debris" includes any abandoned or dilapidated structure or any sunken vessel or other object that can reasonably be expected to collapse or otherwise enter the navigable waters of the United States as drift within a reasonable period.

(f) Authorization of appropriations

There is authorized to be appropriated to carry out this section not to exceed $4,000,000 per fiscal year for fiscal years 1978 and 1979.

(Pub. L. 94-587, § 202, Oct. 22, 1976, 90 Stat. 2945.)

§§ 427 to 430. Repealed. July 31, 1945, ch. 334, § 5, 59 Stat. 508

Section 427, act June 26, 1936, ch. 849, § 1, 49 Stat. 1982, related to the improvement and protection of beaches and the definition of a beach.

Section 428, act June 26, 1936, ch. 849, § 2, 49 Stat. 1982, related to investigations by the Beach Erosion Board and the duties of the Board. See now section 426-1 of this title.

Section 429, act June 26, 1936, ch. 849, § 3, 49 Stat. 1983, related to investigative reports by the Beach Erosion Board. See now section 426-1 of this title.

Section 430, act June 26, 1936, ch. 849, § 4, 49 Stat. 1983, related to the payment of expenses incident to investigations by the Board. See now section 426-1 of this title.

SUBCHAPTER II—OIL POLLUTION OF COASTAL WATERS

§§ 431 to 437. Repealed. Pub. L. 91-224, title I, § 108, Apr. 3, 1970, 84 Stat. 113

Section 431, acts June 7, 1924, ch. 316, § 1, 43 Stat. 604; Nov. 3, 1966, Pub. L. 89-753, title II, § 211(a), 80 Stat. 1252, related to the short title for this subchapter.

Section 432, acts June 7, 1924, ch. 316, § 2, 43 Stat. 604; Nov. 3, 1966, Pub. L. 89-753, title II, § 211(a), 80 Stat. 1252, related to the definitions of the terms "oil," "person", "coastal navigable waters of the United States", and "Secretary".

Section 433, acts June 7, 1924, ch. 316, § 3, 43 Stat. 605; Nov. 3, 1966, Pub. L. 89-753, title II, § 211(a), 80 Stat. 1253, related to the prohibition against the discharge of oil generally.

Section 434, acts June 7, 1924, ch. 316, § 4, 43 Stat. 605; Nov. 3, 1966, Pub. L. 89-753, title II, § 211(a), 80 Stat. 1253, related to the penalties for violation of the oil discharge prohibition and the liability of the vessel.

Section 435, act June 7, 1924, ch. 316, § 5, 43 Stat. 605; 1946 Reorg. Plan No. 3, §§ 101-104, eff. July 16, 1946, 11 F.R. 7875, 60 Stat. 1097; act Nov. 3, 1966, Pub. L. 89-753, title II, § 211(a), 80 Stat. 1254, related the revocation or suspension of licenses of officers of offending vessels.

Section 436, acts June 7, 1924, ch. 316, § 7, 43 Stat. 605; Nov. 3, 1966, Pub. L. 89-753, title II, § 211(a), 80 Stat. 1254, related to the authorization of the use of certain personnel in the enforcement of this subchapter and the arrest of offenders.

Section 437, acts June 7, 1924, ch. 316, § 8, 43 Stat. 606; Nov. 3, 1966, Pub. L. 89-753, title II, § 211(a), 80 Stat. 1254, related to the affect of this subchapter on

[1] So in original.

pre-existing laws for the preservation and protection of navigable waters.

See now section 1251 et seq. of this title.

SUBCHAPTER III—NEW YORK HARBOR, HARBOR OF HAMPTON ROADS, AND HARBOR OF BALTIMORE

Subchapter Referred to in Other Sections

This subchapter is referred to in sections 418, 1371 of this title.

§ 441. Deposit of refuse prohibited; penalty

The placing, discharging, or depositing, by any process or in any manner, of refuse, dirt, ashes, cinders, mud, sand, dredgings, sludge, acid, or any other matter of any kind, other than that flowing from streets, sewers, and passing therefrom in a liquid state, in the waters of any harbor subject to this subchapter, within the limits which shall be prescribed by the supervisor of the harbor, is strictly forbidden, and every such act is made a misdemeanor, and every person engaged in or who shall aid, abet, authorize, or instigate a violation of this section, shall, upon conviction, be punishable by fine or imprisonment, or both, such fine to be not less than $250 nor more than $2,500, and the imprisonment to be not less than thirty days nor more than one year, either or both united, as the judge before whom conviction is obtained shall decide, one-half of said fine to be paid to the person or persons giving information which shall lead to conviction of this misdemeanor.

(June 29, 1888, ch. 496, § 1, 25 Stat. 209; Aug. 28, 1958, Pub. L. 85-802, § 1(1), 72 Stat. 970.)

Prior Provisions

Section 1 of act June 29, 1888, superseded act Aug. 5, 1886, ch. 929, § 3, 24 Stat. 329, which provided as follows:

"Sec. 3. It shall not be lawful to cast, throw, empty, or unlade, or cause, suffer, or procure to be cast, thrown, emptied, or unladen, either from or out of any ship, vessel, lighter, barge, boat, or other craft, or from the shore, pier, wharf, or mills of any kind whatever, any ballast, stone, slate, gravel, earth, slack, rubbish, wreck, filth, slabs, edgings, sawdust, slag or cinders or other refuse or mill-waste of any kind, into New York Harbor: Provided, That nothing herein contained shall extend, or be construed to extend, to the casting out, unlading, or throwing out of any ship or vessel, lighter, barge, boat, or other craft, any stones, rocks, bricks, lime, or other materials used, or to be used, in or toward the building, repairing, or keeping in repair any quay, pier, wharf, weir, bridge, building, or other work lawfully erected or to be erected on the banks or sides of said harbor, or to the casting out, unloading or depositing of any material excavated for the improvement of navigable waters, into such places and in such manner as may be deemed by the United States officer supervising the improvement of said harbor most judicious and practicable and for the best interests of such improvement."

Amendments

1958—Pub. L. 85-802 substituted "waters of any harbor subject to this subchapter," for "tidal waters of the harbor of New York, or its adjacent or tributary waters, or in those of long Island Sound,".

Effective Date of 1958 Amendment

Section 2 of Pub. L. 85-802 provided that: "This Act [amending sections 441, 442, 446, 447, 449, 451, and 451a of this title, and adding section 451b of this title] shall take effect on the sixtieth day after the date of its enactment [Aug. 28, 1958]."

Cross References

Consent of Congress to obstruction of waters by New York City, see section 454 of this title.

Discharges of pollutants into the navigable waters subject to these sections to be regulated pursuant to Federal Water Pollution Control Act except as to effect on navigation and anchorage, see section 1371 of this title.

Misdemeanor defined, see section 1 of Title 18, Crimes and Criminal Procedure.

Taking shellfish or otherwise interfering with navigation in New York Harbor channels, see section 452 of this title.

Section Referred to in Other Sections

This section is referred to in sections 442, 443, 444 of this title.

§ 442. Liability of officers of towing vessel

Any and every master and engineer, or person or persons acting in such capacity, respectively, on board of any boat or vessel, who shall knowingly engage in towing any scow, boat, or vessel loaded with any such prohibited matter to any point or place of deposit, or discharge in the waters of any harbor subject to this subchapter, or to any point or place elsewhere than within the limits defined and permitted by the supervisor of the harbor, shall be deemed guilty of a violation of section 441 of this title, and shall, upon conviction, be punishable as provided for offenses in violation of section 441 of this title, and shall also have his license revoked or suspended for a term to be fixed by the judge before whom tried and convicted.

(June 29, 1888, ch. 496, § 2, 25 Stat. 209; Aug. 28, 1958, Pub. L. 85-802, § 1(2), 72 Stat. 970.)

Amendments

1958—Pub. L. 85-802 substituted "any harbor subject to this subchapter" for "the harbor of New York, or in its adjacent or tributary waters, or in those of Long Island Sound", and eliminated "hereinafter mentioned" following "supervisor of the harbor".

Effective Date of 1958 Amendment

Amendment by Pub. L. 85-802 effective on sixtieth day after Aug. 28, 1958, see section 2 of Pub. L. 85-802, set out as an Effective Date of 1958 Amendment note under section 441 of this title.

§ 443. Permit for dumping; penalty for taking or towing boat or scow without permit

In all cases of receiving on board of any scows or boats such forbidden matter or substance as described in section 441 of this title, the owner or master, or person acting in such capacity on board of such scows or boats, before proceeding to take or tow the same to the place of deposit, shall apply for and obtain from the supervisor of the harbor appointed, as provided in section 451 of this title, a permit defining the precise limits within which the discharge of such scows or boats may be made; and it shall not be lawful for the owner or master, or person acting in such capacity, of any tug or towboat to tow or move any scow or boat so loaded with such forbidden matter until such permit shall have been obtained; and every person violating the foregoing provisions of this section shall be deemed guilty of a misdemeanor, and on convic-

tion thereof shall be punished by a fine of not more than $1,000 nor less than $500, and in addition thereto the master of any tug or towboat so offending shall have his license revoked or suspended for a term to be fixed by the judge before whom tried and convicted.

(June 29, 1888, ch. 496, § 3, 25 Stat. 209; Aug. 18, 1894, ch. 299, § 3, 28 Stat. 360; May 28, 1908, ch. 212, § 8, 35 Stat. 426.)

CODIFICATION

Section was enacted as part of section 3 of act June 29, 1888. Said section 3 of act June 29, 1888, enacted sections 443 to 448 of this title.

Section 3 of act June 29, 1888, as originally enacted, provided as follows:

"In all cases of receiving on board of any scows or boats such forbidden matter or substance as herein described, it shall be the duty of the owner or master, or person acting in such capacity, on board of such scows or boats, before proceeding to take or tow the same to the place of deposit, to apply for and obtain from the supervisor of the harbor appointed hereunder a permit defining the precise limits within which the discharge of such scows or boats may be made; and any deviation from such dumping or discharging place specified in such permit shall be a misdemeanor within the meaning of this act; and the master and engineer, or person or persons acting in such capacity, on board of any towboat towing such scows or boats, shall be equally guilty of such offense with the master or person acting in the capacity of master of the scow, and be liable to equal punishment."

Section 3 was amended by act Aug. 18, 1894, to read as follows:

"In all cases of receiving on board of any scows or boats such forbidden matter or substance as herein described, the owner or master, or person acting in such capacity on board of such scows or boats, before proceeding to take or tow the same to the place of deposit, shall apply for and obtain from the supervisor of the harbor appointed hereunder a permit defining the precise limits within which the discharge of such scows or boats may be made; and it shall not be lawful for the owner or master, or person acting in such capacity, of any tug or towboat to tow or move any scow or boat so loaded with such forbidden matter until such permit shall have been obtained; and every person violating the foregoing provisions of this section shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not more than one thousand nor less than five hundred dollars, and in addition thereto the master of any tug or towboat so offending shall have his license revoked, or suspended for a term to be fixed by the judge before whom tried and convicted. And any deviation from such dumping or discharging place specified in such permit shall be a misdemeanor, and the owner and master, or person acting in the capacity of master, of any scows or boats dumping or discharging such forbidden matter in any place other than that specified in such permit shall be liable to punishment therefor as provided in section one of the said Act of June twenty-ninth, eighteen hundred and eighty-eight [section 441 of this title]; and the owner and master, or person acting in the capacity of master, of any tug or towboat towing such scows or boats shall be liable to equal punishment with the owner and master, or person acting in the capacity of master, of the scows or boats; and further, every scowman or other employee on board of both scows and towboats shall be deemed to have knowledge of the place of dumping specified in such permit, and the owners and masters, or persons acting in the capacity of masters, shall be liable to punishment, as aforesaid, for any unlawful dumping, within the meaning of this Act or of the said Act of June twenty-ninth, eighteen hundred and eighty-eight, which may be caused by the negligence or ignorance of such scowman or other employee; and, further, neither defect in machinery nor avoidable accidents to scows or towboats, nor unfavorable weather, nor improper handling or moving of scows or boats of any kind whatsoever, shall operate to release the owners and masters and employees of scows and towboats from the penalties hereinbefore mentioned. Every scow or boat engaged in the transportation of dredgings, earth, sand, mud, cellar dirt, garbage, or other offensive material of any description shall have its name or number and owner's name painted in letters and numbers at least fourteen inches long on both sides of the scow or boat; these names and numbers shall be kept distinctly legible at all times, and no scow or boat not so marked shall be used to transport or dump any such material. The supervisor of the harbor of New York, designated as provided in section five of the said Act of June twenty-ninth, eighteen hundred and eighty-eight [section 451 of this title], is authorized and directed to appoint inspectors and deputy inspectors, and, for the purpose of enforcing the provisions of this Act and of the Act aforesaid, and of detecting and bringing to punishment offenders against the same, the said supervisor of the harbor, and the inspectors and deputy inspectors so appointed by him, shall have power and authority: First. To arrest and take into custody, with or without process, any person or persons who may commit any of the acts or offenses prohibited by this section and by the Act of June twenty-ninth, eighteen hundred and eighty-eight, aforesaid, or who may violate any of the provisions of the same: Provided, That no person shall be arrested without process for any offense not committed in the presence of the supervisor or his inspectors or deputy inspectors, or either of them: And provided further, That whenever any such arrest is made the person or persons so arrested shall be brought forthwith before a commissioner, judge, or court of the United States for examination of the offenses alleged against him; and such commissioner, judge, or court shall proceed in respect thereto as authorized by law in case of crimes against the United States. Second. To go on board of any scow or towboat engaged in unlawful dumping of prohibited material, or in moving the same without a permit as required in this section of this Act, and to seize and hold said boats until they are discharged by action of the commissioner, judge, or court of the United States before whom the offending persons are brought. Third. To arrest and take into custody any witness or witnesses to such unlawful dumping of prohibited material, the said witnesses to be released under proper bonds. Fourth. To go on board of any towboat having in tow scows or boats loaded with such prohibited material, and accompany the same to the place of dumping whenever such action appears to be necessary to secure compliance with the requirements of this Act and of the Act aforesaid. Fifth. To enter gas and oil works and all other manufacturing works for the purpose of discovering the disposition made of sludge, acid, or other injurious material, whenever there is good reason to believe that such sludge, acid, or other injurious material is allowed to run into the tidal waters of the harbor in violation of section one of the aforesaid Act of June twenty-ninth, eighteen hundred and eighty-eight [section 441 of this title]. Every person who, directly or indirectly, gives any sum of money or other bribe, present, or reward or makes any offer of the same to any inspector, deputy inspector, or other employee of the office of the supervisor of the harbor with intent to influence such inspector, deputy inspector, or other employee to permit or overlook any violation of the provisions of this section or of the said Act of June twenty-ninth, eighteen hundred and eighty-eight, shall, on conviction thereof, be fined not less than five hundred dollars nor more than one thousand dollars, and be imprisoned not less than six months nor more than one year. Every permit issued in accordance with the provisions of this section of this Act which may not be taken up by an inspector or deputy inspector shall be returned within forty-eight hours after issuance to the office of the supervi-

sor of the harbor; such permit shall bear an indorsement by the master of the towboat, or the person acting in such capacity, stating whether the permit has been used, and if so the time and place of dumping. Any person violating the provisions of this section shall be liable to a fine of not more than five hundred dollars nor less than one hundred dollars."

Section 3 was further amended by act May 28, 1908, ch. 212, § 8, to read as set forth in this section and sections 444 to 448 of this title.

CROSS REFERENCES

Misdemeanor defined, see section 1 of Title 18, Crimes and Criminal Procedure.

§ 444. Dumping at other place than designated dumping grounds; penalty; person liable; excuses for deviation

Any deviation from such dumping or discharging place specified in such permit shall be a misdemeanor, and the owner and master, or person acting in the capacity of master, of any scows or boats dumping or discharging such forbidden matter in any place other than that specified in such permit shall be liable to punishment therefor as provided in section 441 of this title; and the owner and master, or person acting in the capacity of master, of any tug or towboat towing such scows or boats shall be liable to equal punishment with the owner and master, or person acting in the capacity of master, of the scows or boats; and, further, every scowman or other employee on board of both scows and towboats shall be deemed to have knowledge of the place of dumping specified in such permit, and the owners and masters, or persons acting in the capacity of masters, shall be liable to punishment, as aforesaid, for any unlawful dumping, within the meaning of this Act and this subchapter, which may be caused by the negligence or ignorance of such scowman or other employee; and, further, neither defect in machinery nor avoidable accidents to scows or towboats, nor unfavorable weather, nor improper handling or moving of scows or boats of any kind whatsoever shall operate to release the owners and master and employees of scows and towboats from the penalties mentioned in section 441 of this title.

(June 29, 1888, ch. 496, § 3, 25 Stat. 209; Aug. 18, 1894, ch. 299, § 3, 28 Stat. 360; May 28, 1908, ch. 212, § 8, 35 Stat. 426.)

REFERENCES IN TEXT

This Act, referred to in text, means act Aug. 18, 1894, ch. 299, 28 Stat. 356, which enacted sections 1, 31, and 452 of this title and amended sections 443 to 448 and 499 of this title. For complete classification of this Act to the Code, see Tables volume.

CODIFICATION

Section was enacted as part of section 3 of act June 29, 1888. Said section 3 of act June 29, 1888, enacted sections 443 to 448 of this title. See Codification note set out under section 443 of this title.

§ 445. Equipment and marking of boats or scows

Every scow or boat engaged in the transportation of dredgings, earth, sand, mud, cellar dirt, garbage, or other offensive material of any description shall have its name or number and owner's name painted in letters and numbers at least fourteen inches long on both sides of the scow or boat; these names and numbers shall be kept distinctly legible at all times, and no scow or boat not so marked shall be used to transport or dump any such material. Each such scow or boat shall be equipped at all times with a life line or rope extending at least the length of and three feet above the deck thereof, such rope to be attached to the coaming thereof, also with a life preserver and a life buoy for each person on board thereof, also with anchor to weigh not less than two hundred and seventy-five pounds, and at least one hundred feet of cable attached thereto; a list of the names of all men employed on any such scow or boat shall be kept by the owner or master thereof and the said list shall be open to the inspection of all parties. Failure to comply with any of the foregoing provisions shall render the owner of such scow or boat liable upon conviction thereof to a penalty of not more than $500: *Provided*, That the requirements in regard to life line or rope contained in this section shall not apply to any scow or boat the deck outside the coaming or rail of which shall not exceed one foot in width: *And provided further*, That on any such scow or boat its name or number and owner's name painted in letters and numbers, at least fourteen inches long on both ends of such scow or boat, shall be a compliance with the provisions of this section in regard to name, number, and owner's name.

(June 29, 1888, ch. 496, § 3, 25 Stat. 209; Aug. 18, 1894, ch. 299, § 3, 28 Stat. 360; May 28, 1908, ch. 212, § 8, 35 Stat. 426; Feb. 16, 1909, ch. 132, 35 Stat. 623.)

CODIFICATION

Section was enacted as part of section 3 of act June 29, 1888. Said section 3 of act June 29, 1888, enacted sections 443 to 448 of this title. See Codification note set out under section 443 of this title.

Provisos are from act Feb. 16, 1909.

§ 446. Inspectors; appointment, powers, and duties

Each supervisor of a harbor is authorized and directed to appoint inspectors and deputy inspectors, and for the purposes of enforcing this subchapter and the Act of August 18, 1894, entitled "An Act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes" (28 Stat. 338), and of detecting and bringing to punishment offenders against the same, the said supervisor of the harbor, and the inspectors and deputy inspectors so appointed by him, shall have power and authority.

First. To arrest and take into custody, with or without process, any person or persons who may commit any of the acts or offenses prohibited by this subchapter, or who may violate any of the provisions of the same: *Provided*, That no person shall be arrested without process for any offense not committed in the presence of the supervisor or his inspectors or deputy inspectors, or either of them: *And provided further*, That whenever any such arrest is made the person or persons so arrested shall be brought forthwith before a magistrate, judge, or court of the United States for examination of the offenses alleged against him; and such magistrate, judge, or court shall proceed in re-

spect thereto as authorized by law in case of crimes against the United States.

Second. To go on board of any scow or towboat engaged in unlawful dumping of prohibited material, or in moving the same without a permit, as required in sections 443 to 448 of this title, or otherwise violating sections 443 to 448 of this title, and to seize and hold said boats until they are discharged by action of the magistrate, judge, or court of the United States before whom the offending persons are brought.

Third. To arrest and take into custody any witness or witnesses to such unlawful dumping of prohibited material, the said witnesses to be released under proper bonds.

Fourth. To go on board of any towboat having in tow scows or boats loaded with such prohibited material, and accompany the same to the place of dumping, whenever such action appears to be necessary to secure compliance with the requirements of this subchapter and of the Act aforesaid.

Fifth. To enter gas and oil works and all other manufacturing works for the purpose of discovering the disposition made of sludge, acid, or other injurious material, whenever there is good reason to believe that such sludge, acid, or other injurious material is allowed to run into tidal waters of the harbor in violation of section 441 of this title.

(June 29, 1888, ch. 496, § 3, 25 Stat. 209; Aug. 18, 1894, ch. 299, § 3, 28 Stat. 360; May 28, 1908, ch. 212, § 8, 35 Stat. 426; Aug. 28, 1958, Pub. L. 85-802, § 1(3), 72 Stat. 970; Oct. 17, 1968, Pub. L. 90-578, title IV, § 402(b)(2), 82 Stat. 1118.)

REFERENCES IN TEXT

The Act of August 18, 1894, referred to in provision preceding First paragraph, and Act aforesaid, referred to in Fourth paragraph, mean act Aug. 18, 1894, ch. 299, 28 Stat. 356, which enacted sections 1, 31, and 452 of this title and amended sections 443 to 448 and 499 of this title. For complete classification of this Act to the Code, see Tables volume.

Sections 443 to 448 of this title, referred to in the Second paragraph, read in the original "this section of this Act" meaning section 3 of act June 29, 1888, which enacted sections 443 to 448 of this title. The provision of section 3 relating to issuance of permits is classified to section 443 of this title.

CODIFICATION

Section was enacted as part of section 3 of act June 29, 1888. Said section 3 of act June 29, 1888, enacted sections 443 to 448 of this title. See Codification note set out under section 443 of this title.

AMENDMENTS

1958—Pub. L. 85-802 substituted "Each supervisor of a harbor is authorized and directed to appoint inspectors and deputy inspectors, and, for the purposes of enforcing this subchapter" for "The supervisor of the harbor of New York, designated as provided in section 451 of this title, is authorized and directed to appoint inspectors and deputy inspectors, and for the purpose of enforcing sections 1, 31, and this subchapter".

CHANGE OF NAME

"Magistrate" was substituted for "commissioner" pursuant to Pub. L. 90-578, title IV, § 402(b)(2), Oct. 17, 1968, 82 Stat. 1118. See chapter 43 (§ 631 et seq.) of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85-802 effective on sixtieth day after Aug. 28, 1958, see section 2 of Pub. L. 85-802, set out as an Effective Date of 1958 Amendment note under section 441 of this title.

§ 447. Bribery of inspector; penalty

Every person who, directly or indirectly, gives any sum of money or other bribe, present, or reward, or makes any offer of the same to any inspector, deputy inspector, or other employee of the office of any supervisor of a harbor with intent to influence such inspector, deputy inspector, or other employee to permit or overlook any violation of the provisions of this subchapter, shall, on conviction thereof, be fined not less than $500 nor more than $1,000, and be imprisoned not less than six months nor more than one year.

(June 29, 1888, ch. 496, § 3, 25 Stat. 209; Aug. 18, 1894, ch. 299, § 3, 28 Stat. 360; May 28, 1908, ch. 212, § 8, 35 Stat. 426; Aug. 28, 1958, Pub. L. 85-802, § 1(4), 72 Stat. 970.)

CODIFICATION

Section was enacted as part of section 3 of act June 29, 1888. Said section 3 of act June 29, 1888, enacted sections 443 to 448 of this title. See Codification note set out under section 443 of this title.

AMENDMENTS

1958—Pub. L. 85-802 substituted "any supervisor of a harbor" for "the supervisor of the harbor".

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85-802 effective on sixtieth day after Aug. 28, 1958, see section 2 of Pub. L. 85-802, set out as an Effective Date of 1958 Amendment note under section 441 of this title.

CROSS REFERENCES

Felony and misdemeanor defined, see section 1 of Title 18, Crimes and Criminal Procedure.

§ 448. Return of permit; penalty for failure to return

Every permit issued in accordance with the provisions of sections 443 to 448 of this title, which may not be taken up by an inspector or deputy inspector, shall be returned within four days after issuance to the office of the supervisor of the harbor; such permit shall bear an indorsement by the master of the towboat, or the person acting in such capacity, stating whether the permit has been used, and, if so, the time and place of dumping. Any person violating the provisions of this section shall be liable to a fine of not more than $500 nor less than $100.

(June 29, 1888, ch. 496, § 3, 25 Stat. 209; Aug. 18, 1894, ch. 299, § 3, 28 Stat. 360; May 28, 1908, ch. 212, § 8, 35 Stat. 426.)

REFERENCES IN TEXT

Sections 443 to 448 of this title, referred to in text, read in the original "this section of this Act" meaning section 3 of act June 29, 1888, which enacted sections 443 to 448 of this title. The provision of section 3 relating to issuance of permits is classified to section 443 of this title.

CODIFICATION

Section was enacted as part of section 3 of act June 29, 1888. Said section 3 of act June 29, 1888 enacted sections 443 to 448 of this title. See Codification note set out under section 443 of this title.

CROSS REFERENCES

Felony and misdemeanor defined, see section 1 of Title 18, Crimes and Criminal Procedure.

§ 449. Disposition of dredged matter; persons liable; penalty

All mud, dirt, sand, dredgings, and material of every kind and description whatever taken, dredged, or excavated from any slip, basin, or shoal in any harbor subject to this subchapter, and placed on any boat, scow, or vessel for the purpose of being taken or towed upon the waters of that harbor to a place of deposit, shall be deposited and discharged at such place or within such limits as shall be defined and specified by the supervisor of the harbor, as in sections 443 to 448 of this title prescribed, and not otherwise. Every person, firm, or corporation being the owner of any slip, basin, or shoal, from which such mud, dirt, sand, dredgings, and material shall be taken, dredged, or excavated, and every person, firm, or corporation in any manner engaged in the work of dredging or excavating any such slip, basin, or shoal, or of removing such mud, dirt, sand, or dredgings therefrom, shall severally be responsible for the deposit and discharge of all such mud, dirt, sand, or dredgings at such place or within such limits so defined and prescribed by said supervisor of the harbor; and for every violation of the provisions of this section the person offending shall be guilty of an offense, and shall be punished by a fine equal to the sum of $5 for every cubic yard of mud, dirt, sand, dredgings, or material not deposited or discharged as required by this section.

(June 29, 1888, ch. 496, § 4, 25 Stat. 210; Aug. 28, 1958, Pub. L. 85–802, § 1(5), 72 Stat. 970.)

REFERENCES IN TEXT

Sections 443 to 448 of this title, referred to in text, read in the original "the third section of this Act" meaning section 3 of act June 29, 1888, which enacted sections 443 to 448 of this title. The provision of section 3 relating to specification of the limits within which to discharge is classified to section 443 of this title.

CODIFICATION

Section was enacted as part of section 4 of act June 29, 1888, which enacted this section and section 450 of this title.

AMENDMENTS

1958—Pub. L. 85–802 substituted "any harbor subject to this subchapter" for "the harbor of New York, or the waters adjacent or tributary thereto", and substituted "the waters of that harbor" for "the waters of the harbor of New York".

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85–802 effective on sixtieth day after Aug. 28, 1958, see section 2 of Pub. L. 85–802, set out as an Effective Date of 1958 Amendment note under section 441 of this title.

§ 450. Liability of vessel

Any boat or vessel used or employed in violating any provision of this subchapter, shall be liable to the pecuniary penalties imposed thereby, and may be proceeded against, summarily by way of libel in any district court of the United States having jurisdiction thereof.

(June 29, 1888, ch. 496, § 4, 25 Stat. 210.)

CODIFICATION

Section was enacted as part of section 4 of act June 29, 1888, which enacted this section and section 449 of this title.

§ 451. Supervisor of harbor; appointment and duties

An officer of the Corps of Engineers shall, for each harbor subject to this subchapter, be designated by the Secretary of the Army as supervisor of the harbor, to act under the direction of the Chief of Engineers in enforcing the provisions of this subchapter, and in detecting offenders against the same. Each such officer shall have personal charge and supervision under the Chief of Engineers, and shall direct the patrol boats and other means to detect and bring to punishment offenders against the provisions of this subchapter.

(June 29, 1888, ch. 496, § 5, 25 Stat. 210; June 29, 1949, ch. 278, 63 Stat. 300; July 12, 1952, ch. 707, 66 Stat. 596; Aug. 28, 1958, Pub. L. 85–802, § 1(6), 72 Stat. 970.)

AMENDMENTS

1958—Pub. L. 85–802 inserted "for each harbor subject to this subchapter," and substituted "each such officer" for "This officer".

1952—Act July 12, 1952, transferred enforcement responsibilities of this section from a Naval officer to the Army district engineer at New York.

1949—Act June 29, 1949, repealed phrase "shall receive the sea-pay of his grade and" following "this officer".

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85–802 effective on sixtieth day after Aug. 28, 1958, see section 2 of Pub. L. 85–802, set out as an Effective Date of 1958 Amendment note under section 441 of this title.

§ 451a. Harbors subject to this subchapter

The following harbors shall be subject to this subchapter:

(1) The harbor of New York.

(2) The harbor of Hampton Roads.

(3) The harbor of Baltimore.

(June 29, 1888, ch. 496, § 6, 25 Stat. 210; Aug. 28, 1958, Pub. L. 85–802, § 1(7), 72 Stat. 970.)

AMENDMENTS

1958—Pub. L. 85–802 substituted provisions making harbors of New York, Hampton Roads, and Baltimore subject to this subchapter for appropriation provisions.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85–802 effective on sixtieth day after Aug. 28, 1958, see section 2 of Pub. L. 85–802, set out as an Effective Date of 1958 Amendment note under section 441 of this title.

§ 451b. Waters included within subchapter

For the purposes of this subchapter—

(1) The term "harbor of New York" means the tidal waters of the harbor of New York, its adjacent and tributary waters, and those of Long Island Sound.

(2) The term "harbor of Hampton Roads" means the tidal waters of the harbors of Norfolk, Portsmouth, Newport News, Hampton Roads, and their adjacent and tributary waters, so much of the Chesapeake Bay and its tributaries as lies within the State of Virginia, and so much of the Atlantic Ocean and its tributaries as lies within the jurisdiction of the United States within or to the east of the State of Virginia.

(3) The term "harbor of Baltimore" means the tidal waters of the harbor of Baltimore and its adjacent and tributary waters, and so much of Chesapeake Bay and its tributaries as lies within the State of Maryland.

(June 29, 1888, ch. 496, § 7, as added Aug. 28, 1958, Pub. L. 85-802, § 1(8), 72 Stat. 970.)

EFFECTIVE DATE

Section effective on sixtieth day after Aug. 28, 1958, see section 2 of Pub. L. 85-802, set out as an Effective Date of 1958 Amendment note under section 441 of this title.

§ 452. Taking shellfish or otherwise interfering with navigation in New York Harbor channels; penalty; arrest and procedure

It shall be unlawful for any person or persons to engage in fishing or dredging for shellfish in any of the channels leading to and from the harbor of New York, or to interfere in any way with the safe navigation of those channels by ocean steamships and ships of deep draft.

Any person or persons violating the foregoing provisions of this section shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by fine or imprisonment, or both, such fine to be not more than $250 nor less than $50, and the imprisonment to be not more than six months nor less than thirty days, either or both united, as the judge before whom conviction is obtained shall decide.

It shall be the duty of the United States supervisor of the harbor to enforce this section, and the deputy inspectors of the said supervisor shall have authority to arrest and take into custody, with or without process, any person or persons, who may commit any of the acts or offenses prohibited by this section: *Provided,* That no person shall be arrested without process for any offense not committed in the presence of the supervisor or his inspector or deputy inspectors, or either of them: *And provided further,* That whenever any such arrest is made the person or persons so arrested shall be brought forthwith before a magistrate, judge, or court of the United States for examination of the offenses alleged against him; and such magistrate, judge or court shall proceed in respect thereto as authorized by law in case of crimes against the United States.

(Aug. 18, 1894, ch. 299, § 2, 28 Stat. 360; Oct. 17, 1968, Pub. L. 90-578, title IV, § 402(b)(2), 82 Stat. 1118.)

CODIFICATION

Section was not enacted as part of act June 29, 1888, ch. 496, 25 Stat. 209 which comprises this subchapter.

CHANGE OF NAME

"Magistrate" was substituted for "commissioner" pursuant to Pub. L. 90-578, title IV, § 402(b)(2), Oct. 17, 1968, 82 Stat. 1118. See chapter 43 (§ 631 et seq.) of Title 28, Judiciary and Judicial Procedure.

CROSS REFERENCES

Misdemeanor defined, see section 1 of Title 18, Crimes and Criminal Procedure.

§ 453. Regulations for navigation of Ambrose Channel; exclusion of tows and sailing vessels

The Secretary of the Army is authorized to make such rules and regulations for the navigation of Ambrose Channel as he may deem necessary or expedient to insure its safe use in all kinds of weather, night and day, for all vessels under control and running under their own power, and to this end he may, in his discretion, forbid its use to tows of every description and to sailing vessels.

(Mar. 4, 1913, ch. 144, § 1, 37 Stat. 803.)

CODIFICATION

Section was not enacted as part of act June 29, 1888, ch. 496, 25 Stat. 209 which comprises this subchapter.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

§ 454. Consent of Congress to obstruction of waters by New York City

The consent of Congress is given to the city of New York, in the State of New York, to obstruct navigation of any river or other waterway which does not form a connecting link between other navigable waters of the United States, and lying wholly within the limits of said city, by closing all or any portion of the same or by building structures in or over the same when the said city shall be lawfully authorized to do so by the State of New York: *Provided, however,* That any such obstruction shall be unlawful unless the location and plans for the proposed work or works before the commencement thereof shall have been filed with and approved by the Secretary of the Army and Chief of Engineers; and when the plans for any such obstruction have been approved by the Chief of Engineers and by the Secretary of the Army it shall not be lawful to deviate from such plans either before or after the completion of such obstruction, unless the modification of such plans has previously been submitted to and received the approval of the Chief of Engineers and the Secretary of the Army: *And provided further,* That the city of New York shall be liable for any damage that may be inflicted upon private property by reason of any of the provisions of this section.

The right to alter, amend, or repeal this section is expressly reserved, and the United States shall incur no liability for the alteration, amendment, or repeal thereof to the city of New York, or to the owner or owners, or any other persons interested in any obstruction which shall have been constructed under its provisions.

(June 25, 1910, ch. 436, §§ 1, 2, 36 Stat. 866, 867.)

CODIFICATION

Section was not enacted as part of act June 29, 1888, ch. 496, 25 Stat. 209 which comprises this subchapter.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Secretary of the Army and other offices and officers of the Department of the Army under section 401 of this title to the extent that they relate generally to the location and clearances of bridges and causeways in the navigable waters of the United States were transferred to and vested in the Secretary of Transportation by Pub. L. 89-670, § 6(g)(6)(A), Oct. 15, 1966, 80 Stat. 941. See section 1655 of Title 49, Transportation.

SUBCHAPTER IV—POTOMAC RIVER AND TRIBUTARIES IN DISTRICT OF COLUMBIA

§§ 461 to 464. Repealed. Mar. 3, 1901, ch. 854, § 1636, 31 Stat. 1434

Section 461, act May 19, 1896, ch. 208, § 1, 29 Stat. 126, prohibited deposit of ballast, dirt, ashes or oyster shells into the Potomac River except for the purpose of making a wharf and then only after approval.

Section 462, act May 19, 1896, ch. 208, § 2, 29 Stat. 127, prohibited deposit of dead fish, dead animals, fruits, vegetables, ice, snow, filth or trash of any kind into the Potomac River.

Section 463, act May 19, 1896, ch. 208, § 3, 29 Stat. 127, related to penalties.

Section 464, act May 19, 1896, ch. 208, § 4, 29 Stat. 127, provided that none of these provisions be construed to interfere with any work or improvements in the harbor or river area.

See now section 22-1701 et seq. of the District of Columbia Code.

SUBCHAPTER V—NAVIGABLE WATERS OF MARYLAND

§ 465. Authority to dredge; riparian rights of United States

Subject to the provisions of section 403 of this title authority is granted to dredge, without cost to the United States, in the navigable waters of the United States included within the State of Maryland and outside the limits of projects for improvement of navigation facilities approved by Congress, regardless of rights accruing to the United States as riparian owner under the laws of the State of Maryland: *Provided*, That in the opinion of the Chief of Engineers such dredging will improve facilities for navigation.

(July 3, 1930, ch. 847, § 12, 46 Stat. 949.)

SUBCHAPTER VI—WATER POLLUTION CONTROL

§§ 466 to 466g. Transferred

CODIFICATION

Section 466, acts June 30, 1948, ch. 758, § 1, 62 Stat. 1155; July 9, 1956, ch. 518, § 1, 70 Stat. 498; July 20, 1961, Pub. L. 87-88, § 1(a), 75 Stat. 204; Oct. 2, 1965, Pub. L. 89-234, § 1(a), 79 Stat. 903; 1966 Reorg. Plan No. 2, eff. May 10, 1966, §§ 1(a), (e)(1), 5, 31 F.R. 6857, 80 Stat. 1608, which related to Congressional declaration of policy, was transferred to section 1151 of this title.

Section 466-1, act June 30, 1948, ch. 758, § 2, as added Oct. 2, 1965, Pub. L. 89-234, § 2(a), 79 Stat. 903, and amended 1966 Reorg. Plan. No. 2, eff. May 10, 1966, § 1(a), (b), 31 F.R. 6857, 80 Stat. 1608; Apr. 3, 1970, Pub. L. 91-224, title I, § 110(a), 84 Stat. 113, which provided for a Federal Water Quality Administration, was transferred to section 1152 of this title.

Section 466a, acts June 30, 1948, ch. 758, § 3, formerly § 2, 62 Stat. 1155; July 9, 1956, ch. 518, § 1, 70 Stat. 498; July 20, 1961, Pub. L. 87-88, §§ 1(b), 2, 75 Stat. 204, renumbered Oct. 2, 1965, Pub. L. 89-234, § 2(a), 79 Stat. 903, and amended Nov. 3, 1966, Pub. L. 89-753, title I, § 101, 80 Stat. 1246, which provided for comprehensive water pollution programs, was transferred to section 1153 of this title.

Section 466b, acts June 30, 1948, ch. 758, § 4, formerly § 3, 62 Stat. 1157; July 9, 1956, ch. 518, § 1, 70 Stat. 498; July 20, 1961, Pub. L. 87-88, § 1(b), 75 Stat. 204, renumbered Oct. 2, 1965, Pub. L. 89-234, § 2(a), 79 Stat. 903, which provided for interstate cooperation, was transferred to section 1154 of this title.

Section 466c, acts June 30, 1948, ch. 758, § 5, formerly § 4, 62 Stat. 1158; July 9, 1956, ch. 518, § 1, 70 Stat. 499; July 20, 1961, Pub. L. 87-88, §§ 1(b), (c), 3, 75 Stat. 204, 205, renumbered Oct. 2, 1965, Pub. L. 89-234, § 2(a), 79 Stat. 903, and amended 1966 Reorg. Plan No. 2, eff. May 10, 1966, § 1(a), 31 F.R. 6857, 80 Stat. 1608; Nov. 3, 1966, Pub. L. 89-753, title II, § 201(b), (c)(1), 80 Stat. 1247, 1248; Apr. 3, 1970, Pub. L. 91-224, title I, § 105, 84 Stat. 111, which provided for research, experiments, and studies, was transferred to section 1155 of this title.

Section 466c-1, act June 30, 1948, ch. 758, § 6, as added Oct. 2, 1965, Pub. L. 89-234, § 3, 79 Stat. 905, and amended Nov. 3, 1966, Pub. L. 89-753, title II, § 201(a), 80 Stat. 1246; Apr. 3, 1970, Pub. L. 91-224, title I, § 106, 84 Stat. 113, which provided grants for research and development, was transferred to section 1156 of this title.

Section 466d, acts June 30, 1948, ch. 758, § 7, formerly § 5, 62 Stat. 1158; July 9, 1956, ch. 518, § 1, 70 Stat. 499; June 25, 1959, Pub. L. 86-70, § 28(a), 73 Stat. 148; July 12, 1960, Pub. L. 86-624, § 23(a), 74 Stat. 417; July 20, 1961, Pub. L. 87-88, §§ 1(b), 4(a), (b), 75 Stat. 204, 205, renumbered and amended Oct. 2, 1965, Pub. L. 89-234, §§ 2(a), 7(a), 79 Stat. 903, 910; Nov. 3, 1966, Pub. L. 89-753, title II, § 202, 80 Stat. 1248, which provided grants for water pollution control programs, was transferred to section 1157 of this title.

Section 466e, acts June 30, 1948, ch. 758, § 8, formerly § 6, 62 Stat. 1158; July 9, 1956, ch. 518, § 1, 70 Stat. 502; July 20, 1961, Pub. L. 87-88, §§ 1(b), 5, 75 Stat. 204, 206, renumbered and amended Oct. 2, 1965, Pub. L. 89-234, §§ 2(a), 4, 7(b), 79 Stat. 903, 906, 910; Nov. 3, 1966, Pub. L. 89-753, title II, §§ 203(a), 204, 205, 80 Stat. 1248-1250; Apr. 3, 1970, Pub. L. 91-224, title I, § 111, 84 Stat. 113, which provided grants for construction of sewerage treatment works, was transferred to section 1158 of this title.

Section 466f, acts June 30, 1948, ch. 758, § 9, formerly § 7, 62 Stat. 1159; July 17, 1952, ch. 927, 66 Stat. 755; July 9, 1956, ch. 518, § 1, 70 Stat. 503; July 20, 1961,

Pub. L. 87-88, §§ 1(b)-(d), 6(a), (b), 75 Stat. 204, 207, renumbered Oct. 2, 1965, Pub. L. 89-234, § 2(a), 79 Stat. 903, and amended 1966 Reorg. Plan No. 2, eff. May 10, 1966, § 1(a), (c)(1), (2), 31 F.R. 6857, 80 Stat. 1608, which provided for a Water Pollution Control Advisory Board, was transferred to section 1159 of this title.

Section 466g, acts June 30, 1948, ch. 758, § 10, formerly § 8, 62 Stat. 1159; July 17, 1952, ch. 927, 66 Stat. 755; July 9, 1956, ch. 518, § 1, 70 Stat. 504; July 20, 1961, Pub. L. 87-88, §§ 1(b), 7, 75 Stat. 204, 207, renumbered and amended Oct. 2, 1965, Pub. L. 89-234, §§ 2(a), 5, 7(c), (d), 79 Stat. 903, 907, 910; 1966 Reorg. Plan No. 2, eff. May 10, 1966, § 1(a), (d)(1), (2), 31 F.R. 6857, 80 Stat. 1608; Nov. 3, 1966, Pub. L. 89-753, title II, §§ 206-208, 80 Stat. 1250; Apr. 3, 1970, Pub. L. 91-224, title I, § 112, 84 Stat. 114, which provided for enforcement measures against pollution of interstate or navigable waters, was transferred to section 1160 of this title.

§ 466g-1. Controversies involving construction or application of interstate compacts and pollution of waters

(a) Jurisdiction of actions by States

The United States district courts shall have original jurisdiction (concurrent with that of the Supreme Court of the United States, and concurrent with that of any other court of the United States or of any State of the United States in matters in which the Supreme Court, or any other court, has original jurisdiction) of any case or controversy—

(1) which involves the construction or application of an interstate compact which (A) in whole or in part relates to the pollution of the waters of an interstate river system or any portion thereof, and (B) expresses the consent of the States signatory to said compact to be sued in a district court in any case or controversy involving the application or construction thereof; and

(2) which involves pollution of the waters of such river system, or any portion thereof, alleged to be in violation of the provisions of said compact; and

(3) in which one or more of the States signatory to said compact is a plaintiff or plaintiffs; and

(4) which is within the judicial power of the United States as set forth in the Constitution of the United States.

(b) Amount in controversy; residence, situs or citizenship; nature, character, or legal status of parties

The district courts shall have original jurisdiction of a case or controversy such as is referred to in subsection (a) of this section, without any requirement, limitation, or regard as to the sum or value of the matter in controversy, or of the place of residence or situs or citizenship, or of the nature, character, or legal status, of any of the proper parties plaintiff or defendant in said case or controversy other than the signatory State or States plaintiff or plaintiffs referred to in paragraph (3) of subsection (a) of this section: *Provided*, That nothing in this section shall be construed as authorizing a State to sue its own citizens in said courts.

(c) Suits between States signatory to interstate compact

The original jurisdiction conferred upon the district courts by this section shall include, but not be limited to, suits between States signatory to such interstate compact: *Provided*, That nothing in this section shall be construed as authorizing a State to sue another State which is not a signatory to such compact in said courts.

(d) Venue

The venue of such case or controversy shall be as prescribed by law: *Provided*, That in addition thereto, such case or controversy may be brought in in any judicial district in which the acts of pollution complained of, or any portion thereof, occur, regardless of the place or places of residence, or situs, of any of the parties plaintiff or defendant.

(Pub. L. 87-830, § 1, Oct. 15, 1962, 76 Stat. 957.)

SEPARABILITY OF PROVISIONS

Section 2 of Pub. L. 87-830 provided that: "If any part or application of this Act [this section] should be declared invalid by a court of competent jurisdiction, said invalidity shall not affect the other parts, or the other applications, of said Act."

§§ 466h to 466l. Transferred

CODIFICATION

Section 466h, acts June 30, 1948, ch. 758, § 21, formerly § 9, 62 Stat. 1160; July 9, 1956, ch. 518, § 1, 70 Stat. 506; July 20, 1961, Pub. L. 87-88, § 8, 75 Stat. 210, renumbered § 11, and amended Oct. 2, 1965, Pub. L. 89-234, §§ 2(a), 7(e), 79 Stat. 903, 910; 1966 Reorg. Plan No. 2, eff. May 10, 1966, § 1(a), 31 F.R. 6857, 80 Stat. 1608, renumbered § 21, and amended Apr. 3, 1970, Pub. L. 91-224, title I, §§ 102, 103, 84 Stat. 91, 107, which provided for cooperation by all federal agencies in pollution control, was transferred to section 1171 of this title.

Section 466i, acts June 30, 1948, ch. 758, § 22, formerly § 10, 62 Stat. 1160; July 9, 1956, ch. 518, § 1, 70 Stat. 506; July 20, 1961, Pub. L. 87-88, § 1(b), (d), (e), 75 Stat. 204, renumbered § 12, and amended Oct. 2, 1965, Pub. L. 89-234, §§ 2(a), 6, 79 Stat. 903, 909; 1966 Reorg. Plan No. 2, eff. May 10, 1966, § 1(a), 31 F.R. 6857, 80 Stat. 1608, renumbered § 22 and amended Apr. 3, 1970, Pub. L. 91-224, title I, §§ 102, 104, 84 Stat. 91, 110, which provided for rules and regulations, was transferred to section 1172 of this title.

Section 466j, acts June 30, 1948, ch. 758, § 23, formerly § 11, 62 Stat. 1161; July 9, 1956, ch. 518, § 1, 70 Stat. 506; June 25, 1959, Pub. L. 86-70, § 28(b), 73 Stat. 148; July 12, 1960, Pub. L. 86-624, § 23(b), 74 Stat. 418; July 20, 1961, Pub. L. 87-88, § 9, 75 Stat. 210, renumbered § 13, Oct. 2, 1965, Pub. L. 89-234, § 2(a), 79 Stat. 903, amended Nov. 3, 1966, Pub. L. 89-753, title II, § 209, 80 Stat. 1251, and renumbered § 23, Apr. 3, 1970, Pub. L. 91-224, title I, § 102, 84 Stat. 91, which related to definitions, was transferred to section 1173 of this title.

Section 466k, act June 30, 1948, ch. 758, § 24, formerly § 12, as added July 9, 1956, ch. 518, § 1, 70 Stat. 506, renumbered § 14, Oct. 2, 1965, Pub. L. 89-234, § 2(a), 79 Stat. 903, renumbered § 24, and amended Apr. 3, 1970, Pub. L. 91-224, title I, §§ 102, 107, 84 Stat. 91, 113, which related to application of other laws, was transferred to section 1174 of this title.

Section 466l, act June 30, 1948, ch. 758, § 26, formerly § 16, as added Nov. 3, 1966, Pub. L. 89-753, title II, § 210, 80 Stat. 1252, and renumbered Apr. 3, 1970, Pub. L. 91-224, title I, § 102, 84 Stat. 91, which provided for studies and analysis of costs estimates and reports to Congress, was transferred to section 1175 of this title.

§§ 466m, 466n. Repealed. Pub. L. 91-224, title I, § 102, Apr. 3, 1970, 84 Stat. 91

Section 466m, act June 30, 1948, ch. 758, § 17, as added Nov. 3, 1966, Pub. L. 89-753, title II, § 210, 80 Stat. 1252, authorized a study by the Secretary of Interior, and a report to Congress not later than July 1, 1967, of the extent of pollution of the navigable waters of the United States from litter and sewage deposited into such waters from watercraft.

Section 466n, act June 30, 1948, ch. 758, § 18, as added Nov. 3, 1966, Pub. L. 89-753, title II, § 210, 80 Stat. 1252, authorized a study by the Secretary of Interior, and a report to Congress not later than Jan. 30, 1968, relating to incentives, including, but not limited to, tax and other financial incentives, to assist in the construction of industrial anti-pollution facilities.

SUBCHAPTER VII—DAM INSPECTION PROGRAM

§ 467. Definition of dam

The term "dam" as used in this subchapter means any artificial barrier, including appurtenant works, which impounds or diverts water, and which (1) is twenty-five feet or more in height from the natural bed of the stream or watercourse measured at the downstream toe of the barrier, or from the lowest elevation of the outside limit of the barrier, if it is not across a stream channel or watercourse, to the maximum water storage elevation or (2) has an impounding capacity at maximum water storage elevation of fifty acre-feet or more. This subchapter does not apply to any such barrier which is not in excess of six feet in height, regardless of storage capacity or which has a storage capacity at maximum water storage elevation not in excess of fifteen acre-feet, regardless of height.

(Pub. L. 92-367, § 1, Aug. 8, 1972, 86 Stat. 506.)

§ 467a. Inspection of dams; exceptions

As soon as practicable, the Secretary of the Army, acting through the Chief of Engineers, shall carry out a national program of inspection of dams for the purpose of protecting human life and property. All dams in the United States shall be inspected by the Secretary except (1) dams under the jurisdiction of the Bureau of Reclamation, the Tennessee Valley Authority, or the International Boundary and Water Commission, (2) dams which have been constructed pursuant to licenses issued under the authority of the Federal Power Act [16 U.S.C. 791a et seq.], (3) dams which have been inspected within the twelve-month period immediately prior to August 8, 1972, by a State agency and which the Governor of such State requests be excluded from inspection, and (4) dams which the Secretary of the Army determines do not pose any threat to human life or property. The Secretary may inspect dams which have been licensed under the Federal Power Act upon request of the Federal Power Commission and dams under the jurisdiction of the International Boundary and Water Commission upon request of such Commission.

(Pub. L. 92-367, § 2, Aug. 8, 1972, 86 Stat. 506.)

REFERENCES IN TEXT

The Federal Power Act, referred to in text, is act June 10, 1920, ch. 285, 41 Stat. 1063, as amended, which is classified generally to chapter 12 (§ 791a et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see section 791a of Title 16 and Tables volume.

§ 467b. Investigation reports to Governors; remedial measures

As soon as practicable after inspection of a dam, the Secretary shall notify the Governor of the State in which such dam is located the results of such investigation. The Secretary shall immediately notify the Governor of any hazardous conditions found during an inspection. The Secretary shall provide advice to the Governor, upon request, relating to timely remedial measures necessary to mitigate or obviate any hazardous conditions found during an inspection.

(Pub. L. 92-367, § 3, Aug. 8, 1972, 86 Stat. 507.)

§ 467c. Determination of danger to human life and property

For the purpose of determining whether a dam (including the waters impounded by such dam) constitutes a danger to human life or property, the Secretary shall take into consideration the possibility that the dam might be endangered by overtopping, seepage, settlement, erosion, sediment, cracking, earth movement, earthquakes, failure of bulkheads, flashboard, gates on conduits, or other conditions which exist or which might occur in any area in the vicinity of the dam.

(Pub. L. 92-367, § 4, Aug. 8, 1972, 86 Stat. 507.)

§ 467d. Omitted

CODIFICATION

Section, Pub. L. 92-367, § 5, Aug. 8, 1972, 86 Stat. 507, which provided that the Secretary report to Congress on or before July 1, 1974, on his activities under this subchapter, including in his report an inventory of dams in the United States, a review of each inspection made, recommendations to State Governors and implementation of those recommendations, recommendations for a comprehensive national program for inspection and safety regulation, and recommendations on the responsibilities which should be assumed by Federal, State, and local governments and by public and private interests, was omitted from the Code as executed.

§ 467e. Existing liabilities and obligations unaffected

Nothing contained in this subchapter and no action or failure to act under this subchapter shall be construed (1) to create any liability in the United States or its officers or employees for the recovery of damages caused by such action of failure to act; or (2) to relieve an owner or operator of a dam of the legal duties, obligations, or liabilities incident to the ownership or operation of the dam.

(Pub. L. 92-367, § 6, Aug. 8, 1972, 86 Stat. 507.)

CHAPTER 10—ANCHORAGE GROUNDS AND HARBOR REGULATIONS GENERALLY

Sec.

471. Establishment by Secretary of Transportation of anchorage grounds and regulations generally.
472. Marking anchorage grounds by Commandant of the Coast Guard.
473. Repealed.
474. Anchorage and general regulations for St. Marys River.
475. Regulations for Pearl Harbor, Hawaii.

§ 471. Establishment by Secretary of Transportation of anchorage grounds and regulations generally

The Secretary of Transportation is authorized, empowered, and directed to define and establish anchorage grounds for vessels in all harbors, rivers, bays, and other navigable waters of

the United States whenever it is manifest to the said Secretary that the maritime or commercial interests of the United States require such anchorage grounds for safe navigation and the establishment of such anchorage grounds shall have been recommended by the Chief of Engineers, and to adopt suitable rules and regulations in relation thereto; and such rules and regulations shall be enforced by the Coast Guard under the direction of the Secretary of Transportation: *Provided*, That at ports or places where there is no Coast Guard vessel available such rules and regulations may be enforced by the Chief of Engineers under the direction of the Secretary of Transportation. In the event of the violation of any such rules and regulations by the owner, master, or person in charge of any vessel, such owner, master, or person in charge of such vessel shall be liable to a penalty of $100; and the said vessel may be holden for the payment of such penalty, and may be seized and proceeded against summarily by libel for the recovery of the same in any United States district court for the district within which such vessel may be and in the name of the officer designated by the Secretary of Transportation.

(Mar. 4, 1915, ch. 142, § 7, 38 Stat. 1053; Oct. 15, 1966, Pub. L. 89-670, § 6(b)(1), (g)(1)(A), 80 Stat. 938, 940).

CODIFICATION

The words "Coast Guard" and "Coast Guard vessel" were substituted for "Revenue Cutter Service" and "revenue cutter" appearing in the original text, the Revenue Cutter Service and Life-Saving Service having been combined to form the Coast Guard by act Jan. 28, 1915, ch. 20, § 1, 38 Stat. 800. That act was repealed by act Aug. 4, 1949, ch. 393, § 20, 63 Stat. 561, section 1 of which reestablished the Coast Guard by enacting Title 14, Coast Guard.

Section was from the Rivers and Harbors Appropriation Act of 1915.

PRIOR PROVISIONS

Section probably supersedes acts May 16, 1888, ch. 257, §§ 1, 2, 25 Stat. 151, relative to anchorage grounds in the port of New York, Mar. 3, 1899, ch. 424, § 1, 30 Stat. 1074, extending anchorage regulations for the port of New York, Feb. 6, 1893, ch. 64, §§ 1, 2, 27 Stat. 431, relative to anchorage grounds in the port of Chicago, and June 6, 1900, ch. 819, §§ 1, 2, 31 Stat. 682, relative to anchorage grounds in the Kennebec River.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

TRANSFER OF FUNCTIONS

"Secretary of Transportation" was substituted for "Secretary of the Treasury" in the provision covering enforcement of rules and regulations by the Coast Guard pursuant to section 6(b)(1) of Pub. L. 89-670, which transferred to the Secretary of Transportation all functions, powers, and duties of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury relating to the Coast Guard. Section 6(b)(2) of Pub. L. 89-670, however, provided that notwithstanding such transfer of functions, the Coast Guard shall operate as part of the Navy in time of war or when the President directs as provided in section 3 of Title 14, Coast Guard. See section 1655 of Title 49, Transportation.

"Secretary of Transportation" was substituted for "Secretary of the Army" pursuant to section 6(g)(1)(A) of Pub. L. 89-670, which created the Department of Transportation. All functions, powers, and duties of the Secretary of the Army and other officers and offices of the Department of the Army relating generally to water vessel anchorages under this section were transferred to the Secretary of Transportation. See section 1655 of Title 49, Transportation.

CROSS REFERENCES

Control by Coast Guard of anchorage and movement of vessels in territorial waters for safety of naval vessels, see section 91 of Title 14, Coast Guard.

Regulations for Saint Marys River by Secretary of Commerce, see section 474 of this title.

Special anchorage areas under navigation rules for—

Great Lakes and their connecting and tributary waters, see section 258 of this title.

Harbors, rivers and inland waters generally, see section 180 of this title.

Red River of the North and rivers emptying into the Gulf of Mexico and tributaries, see section 322 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 49 section 1655.

§ 472. Marking anchorage grounds by Commandant of the Coast Guard

The Commandant of the Coast Guard shall provide, establish, and maintain, out of the annual appropriations for the Coast Guard, buoys or other suitable marks for marking anchorage grounds for vessels in waters of the United States, when such anchorage grounds have been defined and established by proper authority in accordance with the laws of the United States.

(Sept. 15, 1922, ch. 313, 42 Stat. 844; 1939 Reorg. Plan No. II, § 2(a), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1432.)

TRANSFER OF FUNCTIONS

"The Commandant of the Coast Guard" and "Coast Guard" were substituted for "the Commissioner of Lighthouses" and "Lighthouse Service" on authority of Reorg. Plan No. II of 1939, § 2(a), set out in the Appendix to Title 5, Government Organization and Employees, which transferred and consolidated the Bureau of Lighthouses (of which the Lighthouse Service was a part and of which the Commissioner of Lighthouses was the head) and its functions with the Coast Guard (of which the Commandant was the Chief).

For transfer of functions of other officers, employees, and agencies of the Department of the Treasury, with certain exceptions, to the Secretary of the Treasury with power to delegate, see Reorg. Plan No. 26 of 1950, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, 1281, set out in the Appendix to Title 5, Government Organization and Employees. Functions of the Coast Guard, and the Commandant of the Coast Guard, were excepted from transfer when the Coast Guard is operating as part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

The Coast Guard was transferred to the Department of Transportation, and all functions, powers, and duties relating to the Coast Guard of the Secretary of the Treasury and of other officers and offices of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, § 6(b)(1), Oct. 15, 1966, 80 Stat. 938. Section 6(b)(2) of

Pub. L. 89-670, however, provided that notwithstanding such transfer of functions, the Coast Guard shall operate as part of the Navy in time of war or when the President directs as provided in section 3 of Title 14, Coast Guard. See section 1655 of Title 49, Transportation.

§ 473. Repealed. Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 637

Section, act Mar. 2, 1895, ch. 172, §§ 1, 2, 28 Stat. 740, provided that the powers and authority conferred upon the harbor master, District of Columbia, may in his absence or disability by exercised by the pilot of the harbor police boat.

§ 474. Anchorage and general regulations for St. Marys River

The Commandant of the Coast Guard is authorized and directed to adopt and prescribe suitable rules and regulations governing the movements and anchorage of vessels and rafts in Saint Marys River from Point Iroquois, on Lake Superior, to Point Detour, on Lake Huron, and for the purpose of enforcing the observance of such regulations the Secretary of Transportation is authorized to detail one or more Coast Guard cutters for duty upon the request of the Commandant of the Coast Guard on said river.

All officers of the Coast Guard who are directed to enforce the regulations prescribed by the above rules are empowered and directed, in case of necessity, or when a proper notice has been disregarded, to use the force at their command to remove from channels or stop any vessel found violating the prescribed rules.

In the event of the violation of any such regulations or rules of the Commandant of the Coast Guard by the owners, master, or person in charge of such vessel, such owners, master, or person in charge shall be liable to a penalty not exceeding $200: *Provided*, That the Commandant of the Coast Guard may remit said fine on such terms as he may prescribe: *Provided also*, That nothing in this section shall be construed to amend or repeal chapter 4 of this title regulating navigation on the Great Lakes and their connecting and tributary waters as far east as Montreal.

(Mar. 6, 1896, ch. 49, §§ 1-3, 29 Stat. 54-55; Apr. 26, 1906, ch. 1874, §§ 1, 2, 34 Stat. 136; Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736; 1946 Reorg. Plan No. 3, §§ 101-104, eff. July 16, 1946, 11 F.R. 7875, 60 Stat. 1097; Oct. 15, 1966, Pub. L. 89-670, § 6(b)(1), 80 Stat. 938.)

CODIFICATION

In the original text, the words "and Labor" followed "Secretary of Commerce." They are omitted from the Code, in view of act Mar. 4, 1913, providing that the Secretary of Commerce and Labor should thereafter be called the Secretary of Commerce.

The words "Coast Guard cutters" and "Coast Guard" appearing in this section were substituted for "revenue cutters" and "Revenue-Cutter Service," the Revenue Cutter Service and Life-Saving Service having been combined to form the Coast Guard by act Jan. 28, 1915, ch. 20, § 1, 38 Stat. 800. That act was repealed by act Aug. 4, 1949, ch. 393, § 20, 63 Stat. 561, section 1 of which reestablished the Coast Guard by enacting Title 14, Coast Guard.

TRANSFER OF FUNCTIONS

Functions of the Secretary of Commerce under this section were transferred to the Commandant of the Coast Guard by Reorg. Plan No. 3 of 1946, §§ 101 to 104, set out in the Appendix to Title 5, Government Organization and Employees.

For transfer of functions of other officers, employees, and agencies of the Department of the Treasury, with certain exceptions, to the Secretary of the Treasury with power to delegate, see Reorg. Plan No. 26 of 1950, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, 1281, set out in the Appendix to Title 5, Government Organization and Employees. Functions of the Coast Guard, and the Commandant of the Coast Guard, were excepted from transfer when the Coast Guard is operating as part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

The Coast Guard was transferred to the Department of Transportation, and all functions, powers, and duties relating to the Coast Guard of the Secretary of the Treasury and of other officers and offices of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, § 6(b)(1), Oct. 15, 1966, 80 Stat. 938. Section 6(b)(2) of Pub. L. 89-670, however, provided that notwithstanding such transfer of functions, the Coast Guard shall operate as part of the Navy in time of war or when the President directs as provided in section 3 of Title 14, Coast Guard. See section 1655 of Title 49, Transportation.

CROSS REFERENCES

Anchorage grounds and regulations generally, see section 471 of this title.

§ 475. Regulations for Pearl Harbor, Hawaii

For the proper control, protection, and defense of the naval station, harbor, and entrance channel at Pearl Harbor, Territory of Hawaii, the Secretary of the Navy is authorized, empowered, and directed to adopt and prescribe suitable rules and regulations governing the navigation, movement, and anchorage of vessels of whatsoever character in the waters of Pearl Harbor, island of Oahu, Hawaiian Islands, and in the entrance channel to said harbor, and to take all necessary measures for the proper enforcement of such rules and regulations.

(Aug. 22, 1912, ch. 335, 37 Stat. 341.)

CODIFICATION

Section is from the Naval Appropriation Act for 1913.

ADMISSION OF HAWAII AS STATE

Admission of Hawaii into the Union was accomplished Aug. 21, 1959 upon issuance of Proc. No. 3309, Aug. 21, 1959, 24 F.R. 6868, 73 Stat. c74, as required by sections 1 and 7(c) of Pub. L. 86-3, Mar. 18, 1959, 73 Stat. 4, set out as notes preceding section 491 of Title 48, Territories and Insular Possessions.

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SUBCHAPTER I—GENERAL PROVISIONS

§ 491. Approval of and deviation from plans

When, after March 23, 1906, authority is granted by Congress to any persons to construct and maintain a bridge across or over any of the navigable waters of the United States, such bridge shall not be built or commenced until the plans and specifications for its construction, together with such drawings of the proposed construction and such map of the proposed location as may be required for a full understanding of the subject, have been submitted to the Secretary of the Army and Chief of Engineers for their approval, nor until they shall have approved such plans and specifications and the location of such bridge and accessory works; and when the plans for any bridge to be constructed under the provisions of sections 491 to 498 of this title, have been approved by the Chief of Engineers and by the Secretary of the Army it shall not be lawful to deviate from such plans, either before or after completion of the structure, unless the modification of such plans has previously been submitted to and received the approval of the Chief of Engineers and of the Secretary of the Army.

(Mar. 23, 1906, ch. 1130, § 1, 34 Stat. 84.)

Change of Name

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

Short Title

Sections 491 to 498 of this title are popularly known as the "Bridge Act of 1906."

Transfer of Functions

All functions, powers, and duties of the Secretary of the Army and other offices and officers of the Department of the Army under this section to the extent that they relate generally to the location and clearances of bridges and causeways in the navigable

waters of the United States were transferred to and vested in the Secretary of Transportation by Pub. L. 89-670, § 6(g)(6)(B), Oct. 15, 1966, 80 Stat. 941. See section 1655 of Title 49, Transportation.

CROSS REFERENCES

Construction of bridges, causeways, dams or dikes generally, see section 401 of this title.
Criminal liability for failure to alter bridge obstructing navigation, see section 502 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 492, 493, 494, 495, 497, 498, 498a, 498b, 503, 526a, 530, 535, 535c of this title; title 49 section 1655.

§ 492. Bridge as post route; limitation as to charges against Government; telegraph and telephone lines

Any bridge built in accordance with the provisions of sections 491 to 498 of this title, shall be a lawful structure and shall be recognized and known as a post route, upon which no higher charge shall be made for the transmission over the same of the mails, the troops, and the munitions of war of the United States than the rate per mile paid for the transportation over any railroad, street railway, or public highway leading to said bridge; and the United States shall have the right to construct, maintain, and repair, without any charge therefor, telegraph and telephone lines across and upon said bridge and its approaches; and equal privileges in the use of said bridge and its approaches shall be granted to all telegraph and telephone companies.

(Mar. 23, 1906, ch. 1130, § 2, 34 Stat. 85.)

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Secretary of the Army and other offices and officers of the Department of the Army under this section to the extent that they relate generally to the location and clearances of bridges and causeways in the navigable waters of the United States were transferred to and vested in the Secretary of Transportation by Pub. L. 89-670, § 6(g)(6)(B), Oct. 15, 1966, 80 Stat. 941. See section 1655 of Title 49, Transportation.

CROSS REFERENCES

Government traffic and personnel subject to tolls—
Golden Gate Bridge, see sections 1002 to 1004 of Title 15, Commerce and Trade.
San Francisco to Oakland Bay Bridge, see sections 1005 to 1007 of Title 15.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 491, 493, 494, 495, 497, 498, 498a, 498b, 503, 526a, 530, 535 of this title; title 49 section 1655.

§ 493. Use of railroad bridges by other railroad companies

All railroad companies desiring the use of any railroad bridge built in accordance with the provisions of sections 491 to 498 of this title, shall be entitled to equal rights and privileges relative to the passage of railway trains or cars over the same and over the approaches thereto upon payment of a reasonable compensation for such use; and in case of any disagreement between the parties in regard to the terms of such use or the sums to be paid all matters at issue shall be determined by the Secretary of the Army upon hearing the allegations and proofs submitted to him.

(Mar. 23, 1906, ch. 1130, § 3, 34 Stat. 85.)

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Secretary of the Army and other offices and officers of the Department of the Army under this section to the extent that they relate generally to the location and clearances of bridges and causeways in the navigable waters of the United States were transferred to and vested in the Secretary of Transportation by Pub. L. 89-670, § 6(g)(6)(B), Oct. 15, 1966, 80 Stat. 941. See section 1655 of Title 49, Transportation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 491, 492, 494, 495, 497, 498, 498a, 498b, 503, 526a, 530, 535 of this title; title 49 section 1655.

§ 494. Obstruction of navigation; alterations and removals; lights and signals; draws; tolls

No bridge erected or maintained under the provisions of sections 491 to 498 of this title, shall at any time unreasonably obstruct the free navigation of the waters over which it is constructed, and if any bridge erected in accordance with the provisions of said sections, shall, in the opinion of the Secretary of Transportation at any time unreasonably obstruct such navigation, either on account of insufficient height, width of span, or otherwise, or if there be difficulty in passing the draw opening or the drawspan of such bridge by rafts, steamboats, or other water craft, it shall be the duty of the Secretary of Transportation after giving the parties interested reasonable opportunity to be heard, to notify the persons owning or controlling such bridge to so alter the same as to render navigation through or under it reasonably free, easy, and unobstructed, stating in such notice the changes required to be made, and prescribing in each case a reasonable time in which to make such changes, and if at the end of the time so specified the changes so required have not been made, the persons owning or controlling such bridge shall be deemed guilty of a violation of said sections; and all such alterations shall be made and all such obstructions shall be removed at the expense of the persons owning or operating said bridge. The persons owning or operating any such bridge shall maintain, at their own expense, such lights and other signals thereon as the Commandant of the Coast Guard shall prescribe. If the bridge shall be constructed with a draw, then the draw shall be opened promptly by the persons owning or operating such bridge upon reasonable signal for the passage of boats and other water craft. If tolls shall be charged for the transit over any bridge constructed under the provisions of said sections, of en-

gines, cars, street cars, wagons, carriages, vehicles, animals, foot passengers, or other passengers, such tolls shall be reasonable and just, and the Secretary of Transportation may, at any time, and from time to time, prescribe the reasonable rates of toll for such transit over such bridge, and the rates so prescribed shall be the legal rates and shall be the rates demanded and received for such transit.

(Mar. 23, 1906, ch. 1130, § 4, 34 Stat. 85; Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736; 1946 Reorg. Plan No. 3, §§ 101–104, eff. July 16, 1946, 11 F.R. 7875, 60 Stat. 1097; Oct. 15, 1966, Pub. L. 89-670, § 6(g)(4)(A), (6)(B), 80 Stat. 941.)

CODIFICATION

The words "and Labor," which followed "Secretary of Commerce" in the original text were superseded by act Mar. 4, 1913, which provided that the Secretary of Commerce and Labor should be called the Secretary of Commerce.

PRIOR PROVISIONS

Act July 5, 1884, ch. 229, § 8, 23 Stat. 148, relating to authority of Secretary of War to require owners of bridges which obstruct navigation to relieve the situation or be penalized, was probably omitted from the Code as superseded by this section and section 495 of this title, which by section 498b of this title were made applicable to bridges authorized prior to March 23, 1906.

Section would seem to supersede a provision of act Aug. 7, 1882, ch. 433, § 1, 22 Stat. 309, which read as follows: "That all parties owning, occupying, or operating bridges over any navigable river shall maintain at their own expense, from sunset to sunrise, throughout the year, such lights on their bridges as may be required by the Light-House Board for the security of navigation: and in addition thereto all persons owning, occupying, or operating any bridge over any navigable river shall, in any event, maintain all lights on their bridge that may be necessary for the security of navigation."

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Secretary of the Army and other offices and officers of the Department of the Army relating to the reasonableness of tolls and to the location and clearances of bridges and causeways in the navigable waters of the United States under this section were transferred to and vested in the Secretary of Transportation by section 6(g)(4)(A), (6)(B) of Pub. L. 89-670. See section 1655 of Title 49, Transportation.

The Coast Guard was transferred to the Department of Transportation, and all functions, powers, and duties relating to the Coast Guard of the Secretary of the Treasury and of other officers and offices of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, § 6(b)(1), Oct. 15, 1966, 80 Stat. 938. Section 6(b)(2) of Pub. L. 89-670, however, provided that notwithstanding such transfer of functions, the Coast Guard shall operate as part of the Navy in time of war or when the President directs as provided in section 3 of Title 14, Coast Guard. See section 1655 of Title 49, Transportation.

For transfer of functions of other officers, employees, and agencies of the Department of the Treasury, with certain exceptions, to the Secretary of the Treasury with power to delegate, see Reorg. Plan No. 26 of 1950, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, 1281, set out in the Appendix to Title 5, Government Organization and Employees. Functions of the Coast Guard, and the Commandant of the Coast Guard, were excepted from transfer when the Coast Guard is operating as part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

"Commandant of the Coast Guard" was substituted for "Secretary of Commerce" on authority of Reorg. Plan No. 3 of 1946, §§ 101 to 104, set out in the Appendix to Title 5, Government Organization and Employees.

CONNECTICUT RIVER BRIDGES

Acts Aug. 7, 1939, ch. 503, 53 Stat. 1234, and Apr. 24, 1946, ch. 214, 60 Stat. 122, were amended by act Aug. 9, 1955, ch. 631, 69 Stat. 552, 553, to provide that the last sentence of this section should not be applicable to bridges constructed pursuant to acts Aug. 7, 1939 and Apr. 24, 1946.

CROSS REFERENCES

Section in applicable to any bridge to which provisions of sections 511 to 523 of this title are applicable, see section 522 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 491, 492, 493, 495, 497, 498, 498a, 498b, 503, 522, 526a, 530, 535 of this title; title 49 section 1655.

§ 495. Failure to comply with regulations; penalty; removal of bridge

Any persons who shall fail or refuse to comply with the lawful order of the Secretary of the Army or the Chief of Engineers, made in accordance with the provisions of sections 491 to 498 of this title, shall be deemed guilty of a violation of said sections, and any persons who shall be guilty of a violation of said sections, shall be deemed guilty of a misdemeanor and on conviction thereof shall be punished in any court of competent jurisdiction by a fine not exceeding $5,000, and every month such persons shall remain in default shall be deemed a new offense and subject such persons to additional penalties therefor; and in addition to the penalties above described the Secretary of the Army and the Chief of Engineers may, upon refusal of the persons owning or controlling any such bridge and accessory works to comply with any lawful order issued by the Secretary of the Army or Chief of Engineers in regard thereto, cause the removal of such bridge and accessory works at the expense of the persons owning or controlling such bridge, and suit for such expense may be brought in the name of the United States against such persons, and recovery had for such expense in any court of competent jurisdiction; and the removal of any structures erected or maintained in violation of the provisions of said sections, or the order or direction of the Secretary of the Army or Chief of Engineers made in pursuance thereof may be enforced by injunction, mandamus, or other summary process, upon application to the district court in the district in which such structure may, in whole or in part, exist, and proper proceedings to this end may be instituted under

the direction of the Attorney General of the United States at the request of the Secretary of the Army; and in case of any litigation arising from any obstruction or alleged obstruction to navigation created by the construction of any bridge under said sections, the cause or question arising may be tried before the district court of the United States in any district which any portion of said obstruction or bridge touches.

(Mar. 23, 1906, ch. 1130, § 5, 34 Stat. 85; Mar. 3, 1911, ch. 231, §§ 289, 291, 36 Stat. 1167.)

CODIFICATION

The words "district court" were substituted for "circuit court," upon incorporation into the Code, the Circuit Courts being abolished by act Mar. 3, 1911, and their powers and duties transferred to the district courts by section 291 of that act.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Secretary of the Army and other offices and officers of the Department the Army under this section to the extent that they relate generally to the location and clearances of bridges and causeways in the navigable waters of the United States were transferred to and vested in the Secretary of Transportation by Pub. L. 89-670, § 6(g)(6)(B), Oct. 15, 1966, 80 Stat. 941. See section 1655 of Title 49, Transportation.

CROSS REFERENCES

Misdemeanor defined, see section 1 of Title 18, Crimes and Criminal Procedure.

FEDERAL RULES OF CIVIL PROCEDURE

Abolition of writ of mandamus, see Rule 81(b), Title 28, Appendix, Judiciary and Judicial Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 491, 492, 493, 494, 497, 498, 498a, 498b, 503, 526a, 530, 535 of this title; title 49 section 1655.

§ 496. Time for commencement and completion of bridge

Whenever Congress shall after March 23, 1906, by law authorize the construction of any bridge over or across any of the navigable waters of the United States, and no time for the commencement and completion of such bridge is named in said Act, the authority thereby granted shall cease and be null and void unless the actual construction of the bridge authorized in such Act be commenced within one year and completed within three years from the date of the passage of such Act.

(Mar. 23, 1906, ch. 1130, § 6, 34 Stat. 86.)

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Secretary of the Army and other offices and officers of the Department of the Army under this section to the extent that they relate generally to the location and clearances of bridges and causeways in the navigable waters of the United States were transferred to and vested in the Secretary of Transportation by Pub. L. 89-670, § 6(g)(6)(B), Oct. 15, 1966, 80 Stat. 941. See section 1655 of Title 49, Transportation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 491, 492, 493, 494, 495, 497, 498, 498a, 498b, 503, 526a, 530, 535 of this title; title 49 section 1655.

§ 497. "Persons" defined

The word "persons" as used in sections 491 to 498 of this title, shall be construed to import both the singular and the plural, as the case demands, and shall include municipalities, quasi-municipal corporations, corporations, companies, and associations.

(Mar. 23, 1906, ch. 1130, § 7, 34 Stat. 86.)

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Secretary of the Army and other offices and officers of the Department of the Army under this section to the extent that they relate generally to the location and clearances of bridges and causeways in the navigable waters of the United States were transferred to and vested in the Secretary of Transportation by Pub. L. 89-670, § 6(g)(6)(B), Oct. 15, 1966, 80 Stat. 941. See section 1655 of Title 49, Transportation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 491, 492, 493, 494, 495, 498, 498a, 498b, 503, 526a, 530, 535 of this title; title 49 section 1655.

§ 498. Reservation of right to alter or repeal

The right to alter, amend, or repeal sections 491 to 498 of this title, is expressly reserved as to any and all bridges which may be built in accordance with the provisions of said sections, and the United States shall incur no liability for the alteration, amendment, or repeal thereof to the owner or owners or any other persons interested in any bridge which shall have been constructed in accordance with its provisions.

(Mar. 23, 1906, ch. 1130, § 8, 34 Stat. 86.)

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Secretary of the Army and other offices and officers of the Department of the Army under this section to the extent that they relate generally to the location and clearances of bridges and causeways in the navigable waters of the United States were transferred to and vested in the Secretary of Transportation by Pub. L. 89-670, § 6(g)(6)(B), Oct. 15, 1966, 80 Stat. 941. See section 1655 of Title 49, Transportation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 491, 492, 493, 494, 495, 497, 498a, 498b, 503, 526a, 530, 535 of this title; title 49 section 1655.

§ 498a. Application of sections 491 to 498 to bridges authorized prior to June 10, 1930

In the case of bridges authorized, prior to June 10, 1930, by Acts of Congress specifically reserving to Congress the right to subsequently regulate tolls on such bridges, such bridges shall, in respect of the regulation of all tolls, be subject to the provisions of sections 491 to 498 of this title.

(June 10, 1930, ch. 441, § 17, 46 Stat. 552.)

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Secretary of the Army and other offices and officers of the Department of the Army under this section relating generally to the reasonableness of tolls were transferred to and vested in the Secretary of Transportation by Pub. L. 89-670, § 6(g)(4)(C), Oct. 15, 1966, 80 Stat. 941. See section 1655 of Title 49, Transportation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 49 section 1655.

§ 498b. Application of sections 491 to 498 to bridges authorized prior to March 23, 1906

Any bridge authorized, prior to March 23, 1906, by Act of Congress specifically reserving to Congress the right to alter, amend, or repeal such Act, shall, in respect of the regulation of all tolls, be subject to the provisions of sections 491 to 498 of this title.

(June 27, 1930, ch. 640, § 1, 46 Stat. 821.)

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Secretary of the Army and other offices and officers of the Department of the Army under this section relating generally to the reasonableness of tolls were transferred to and vested in the Secretary of Transportation by Pub. L. 89-670, § 6(g)(4)(D), Oct. 15, 1966, 80 Stat. 941. See section 1655 of Title 49, Transportation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 49 section 1655.

§ 499. Regulations for drawbridges; penalties for violation; enforcement

It shall be the duty of all persons owning, operating, and tending the drawbridges built prior to August 18, 1894, or which may thereafter be built across the navigable rivers and other waters of the United States, to open, or cause to be opened, the draws of such bridges under such rules and regulations as in the opinion of the Secretary of Transportation the public interests require to govern the opening of drawbridges for the passage of vessels and other water crafts, and such rules and regulations, when so made and published, shall have the force of law. Every such person who shall willfully fail or refuse to open, or cause to be opened, the draw of any such bridge for the passage of a boat or boats, or who shall unreasonably delay the opening of said draw after reasonable signal shall have been given, as provided in such regulations, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not more than $2,000 nor less than $1,000, or by imprisonment (in the case of a natural person) for not exceeding one year, or by both such fine and imprisonment, in the discretion of the court: *Provided*, That the proper action to enforce the provisions of this section may be commenced before any magistrate, judge, or court of the United States, and such magistrate, judge, or court shall proceed in respect thereto as authorized by law in case of crimes against the United States: *Provided further*, That whenever, in the opinion of the Secretary of Transportation, the public interests require it, he may make rules and regulations to govern the opening of drawbridges for the passage of vessels and other water crafts, and such rules and regulations, when so made and published, shall have the force of law, and any violation thereof shall be punished as hereinbefore provided: *Provided further*, That any regulations made in pursuance of this section may be enforced as provided in section 413 of this title, the provisions whereof are made applicable to the said regulations.

(Aug. 18, 1894, ch. 299, § 5, 28 Stat. 362; June 13, 1902, ch. 1079, § 6, 32 Stat. 374; Oct. 15, 1966, Pub. L. 89-670, § 6(g)(2), 80 Stat. 941; Oct. 17, 1968, Pub. L. 90-578, title IV, § 402(b)(2), 82 Stat. 1118.)

CODIFICATION

The last proviso of this section was from a part of section 6 of act June 13, 1902, which reads as follows: "Any regulations heretofore or hereafter prescribed by the Secretary of War in pursuance of the fourth and fifth sections of the river and harbor Act of August eighteenth, eighteen hundred and ninety-four [this section and section 1 of this title], and any regulations hereafter prescribed in pursuance of the aforesaid section four as amended by section eleven of this Act [section 1 of this title], may be enforced as provided in section seventeen of the river and harbor Act of March third, eighteen hundred and ninety-nine [section 413 of this title], the provisions whereof are hereby made applicable to the said regulations."

The last paragraph of section 1 of this title is also from a part of section 6 of act June 13, 1902.

Except for the last proviso, this section was from act Aug. 18, 1894.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

"Magistrate" was substituted for "commissioner" pursuant to Pub. L. 90-578, title IV, § 402(b)(2), Oct. 17, 1968, 82 Stat. 1118. See chapter 43 (§ 631 et seq.) of Title 28, Judiciary and Judicial Procedure.

TRANSFER OF FUNCTIONS

"Secretary of Transportation" was substituted for "Secretary of the Army" pursuant to section 6(g)(2) of Pub. L. 89-670, which transferred all functions powers, and duties of the Secretary of the Army and other officers and offices of the Department of the Army relating to drawbridge operating regulations under this section to the Secretary of Transportation. See section 1655 of Title 49, Transportation.

CROSS REFERENCES

Misdemeanor defined, see section 1 of Title 18, Crimes and Criminal Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 49 section 1655.

§ 500. Deflection of current; liability to riparian owners

Whenever complaint shall be made to the Secretary of the Army that by reason of the placing in any navigable waters of the United States of any bridge pier or abutment, the current of such waters has been so deflected from

its natural course as to cause by producing caving of banks or otherwise serious damage or danger to property, it shall be his duty to make inquiry, and if it shall be ascertained that the complaint is well founded, he shall cause the owners or persons operating such bridge to repair such damage or prevent such danger to property by such means as he shall indicate and within such time as he may name, and in default thereof the owners or persons operating such bridge shall be liable in any court of competent jurisdiction to the persons injured in a sum double the amount of said injury: *Provided, however,* That nothing herein contained shall be construed so as to affect any rights of action which may have existed prior to August 11, 1888.

(Aug. 11, 1888, ch. 860, § 2, 25 Stat. 423.)

CODIFICATION

Section was from the River and Harbor Appropriation Act of 1888.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Secretary of the Army and other offices and officers of the Department of the Army under sections 491 to 498 of this title to the extent that they relate generally to the location and clearances of bridges and causeways in the navigable waters of the United States were transferred to and vested in the Secretary of Transportation by Pub. L. 89-670, § 6(g)(6)(B), Oct. 15, 1966, 80 Stat. 931. See section 1655 of Title 49, Transportation.

§ 501. Omitted

CODIFICATION

Section, R.S. § 5250, gave assent of Congress to construction of bridges across the Maquoketa River in Iowa and was omitted from the Code as executed.

§ 502. Criminal liability for failure to alter bridge obstructing navigation

Whenever the Secretary of the Army shall have good reason to believe that any railroad or other bridge over any of the navigable waterways of the United States is an unreasonable obstruction to the free navigation of such waters on account of insufficient height, width of span, or otherwise, or where there is difficulty in passing the draw opening or the draw span of such bridge by rafts, steamboats, or other water craft, it shall be the duty of the said Secretary, first giving the parties reasonable opportunity to be heard, to give notice to the persons or corporations owning or controlling such bridge so to alter the same as to render navigation through or under it reasonably free, easy, and unobstructed; and in giving such notice he shall specify the changes recommended by the Chief of Engineers that are required to be made, and shall prescribe in each case a reasonable time in which to make them. If at the end of such time the alteration has not been made, the Secretary of the Army shall forthwith notify the United States attorney for the district in which such bridge is situated, to the end that the criminal proceedings hereinafter in this section mentioned may be taken. If the persons, corporation, or association owning or controlling any railroad or other bridge shall, after receiving notice to that effect, as hereinbefore required, from the Secretary of the Army, and within the time prescribed by him willfully fail or refuse to remove the same or to comply with the lawful order of the Secretary of the Army in the premises, such persons, corporation, or association shall be deemed guilty of a misdemeanor and on conviction thereof shall be punished by a fine not exceeding $5,000, and every month such persons, corporation, or association shall remain in default in respect to the removal or alteration of such bridge shall be deemed a new offense, and subject the persons, corporation, or association so offending to the penalties above prescribed.

(Mar. 3, 1899, ch. 425, § 18, 30 Stat. 1153; Mar. 3, 1911, ch. 231, § 291, 36 Stat. 1167; Jan. 31, 1928, ch. 14, § 1, 45 Stat. 54; June 25, 1948, ch. 646, §§ 1, 39, 62 Stat. 909, 992.)

CODIFICATION

Section is from the Rivers and Harbors Appropriation Act of 1899.

The words "or from the existing circuit courts," which followed "district courts" in the proviso were superseded by the abolition of the circuit courts and the transfer of their jurisdiction to the district courts, by act Mar. 3, 1911.

PRIOR PROVISIONS

This section superseded act Aug. 11, 1888, ch. 860, §§ 9, 10, 25 Stat. 424, as amended by act Sept. 19, 1890, ch. 907, §§ 4, 5, 26 Stat. 453, which required the Secretary of War to provide against obstructions to navigation by bridges, and prescribed a punishment on the owner's default in making the required alterations.

The Secretary of War was authorized to make the required changes in bridges obstructing navigation on the owner's failure to do so, and the Attorney General was required to institute proceedings against the owner for the recovery of the cost of such changes, by act July 5, 1884, ch. 229, § 8, 23 Stat. 148.

AMENDMENTS

1948—Act June 25, 1948, § 39, repealed proviso at end of section as it is now covered by sections 1252 and 1253 of title 28.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

Act June 25, 1948, eff. Sept. 1, 1948, substituted "United States attorney" for "district attorney of the United States". See section 541 of Title 28, Judiciary and Judicial Procedure, and Historical and Revision note thereunder.

EFFECTIVE DATE OF 1948 AMENDMENT

Amendment by act June 25, 1948 effective Sept. 1, 1948, see section 38 of act June 25, 1948 set out as an

Effective Date note preceding section 1 of Title 28, Judiciary and Judicial Procedure.

LIMITATION ON APPLICATION

Section as not applicable to bridges constructed under sections 491 to 498 of this title, see section 494 of this title.

ABOLITION OF WRITS OF ERROR

Act Jan. 31, 1928, abolished writs of error.

CROSS REFERENCES

Felony and misdemeanor defined, see section 1 of Title 18, Crimes and Criminal Procedure.

Obstruction of navigation by means of a bridge prohibited, see sections 494 and 495 of this title.

Section inapplicable to any bridge to which provisions of sections 511 to 523 of this title are applicable, see section 522 of this title.

Virgin Islands, application of this section to, see section 1399 of Title 48, Territories and Insular Possessions.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 409, 412, 418, 522 of this title; title 48 section 1399.

§ 503. Tolls; reasonableness; bridges to which provisions not applicable

On and after August 21, 1935, tolls for passage or transit over any bridge over any of the navigable waters of the United States, if such bridge is used for purposes of travel or transportation in interstate or foreign commerce, shall be just and reasonable; but the provisions of sections 503 to 507 of this title shall not apply to any bridge subject to the provisions of sections 491 to 498 of this title, nor to any bridge built under the authority of the legislature of the State across rivers or other waterways the navigable portions of which lie wholly within the limits of a single State, nor to any bridge on which the tolls are prescribed by a contract entered into by or with any State or political subdivision thereof, or any municipality.

(Aug. 21, 1935, ch. 597, § 1, 49 Stat. 670.)

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Secretary of the Army and other offices and officers of the Department of the Army relating to reasonableness of tolls under sections 503 to 507 of this title were transferred to and vested in the Secretary of Transportation by Pub. L. 89-670, § 6(g)(4)(E), Oct. 15, 1966, 80 Stat. 941. See section 1655 of Title 49, Transportation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 504, 506, 507 of this title; title 49 section 1655.

§ 504. Determination of reasonableness by Secretary of Transportation; effect of order prescribing toll

The Secretary of Transportation is authorized, either upon complaint or upon his own initiative, to conduct an inquiry at any time for the purpose of determining whether any toll charged for passage or transit over any bridge to which sections 503 to 507 of this title apply is in violation of the provisions of section 503 of this title, and if he finds, after full opportunity for hearing, that such toll is in violation of such provisions he is authorized and empowered to determine and by order to prescribe what will be the just and reasonable toll to be thereafter charged, and after such order takes effect it shall be unlawful to collect a toll for such passage or transit in excess of that so prescribed. Any such order shall take effect upon the expiration of thirty days after its issuance.

(Aug. 21, 1935, ch. 597, § 2, 49 Stat. 671; Oct. 15, 1966, Pub. L. 89-670, § 6(g)(4)(E), 80 Stat. 941.)

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

TRANSFER OF FUNCTIONS

"Secretary of Transportation" was substituted for "Secretary of the Army" pursuant to section 6(g)(4)(E) of Pub. L. 89-670, which transferred all functions, powers, and duties of the Secretary of the Army and other offices and officers of the Department of the Army relating to reasonableness of tolls under sections 503 to 507 of this title to the Secretary of Transportation. See section 1655 of Title 49, Transportation.

For transfer of certain functions insofar as they pertain to the Air Force, and to the extent that they were not previously transferred to the Secretary of the Air Force and Department of the Air Force from the Secretary of the Army and Department of the Army, see Secretary of Defense Transfer Order No. 40, July 22, 1949.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 503, 505, 506, 507 of this title; title 49 section 1655.

§ 505. Review of order

Any order issued under section 504 of this title may be reviewed by the court of appeals for any judicial circuit in which the bridge in question is wholly or partly located, if a petition for such review is filed within three months after the date such order was issued. The judgment of any such court shall be final, except that it shall be subject to review by the Supreme Court of the United States upon certiorari, in the manner provided in section 1254 of title 28. The review by such courts shall be limited to questions of law, and the findings of fact by the Secretary of Transportation, if supported by substantial evidence, shall be conclusive. Upon such review, such courts shall have power to affirm or, if the order its[1] not in accordance with law, to modify or to reverse the order, with or without remanding the case for a rehearing as justice may require.

(Aug. 21, 1935, ch. 597, § 3, 49 Stat. 671; June 25, 1948, ch. 646, § 32(a), 62 Stat. 991; May 24, 1949, ch. 139, § 127, 63 Stat. 107; Oct. 15, 1966, Pub. L. 89-670, § 6(g)(4)(E), 80 Stat. 941.)

CODIFICATION

"Section 1254 of title 28" was substituted for "section 240 of the Judicial Code, as amended" on authority of act June 25, 1948, ch. 646, 62 Stat. 869, section 1

[1] So in original. Probably should read "is".

of which enacted Title 28, Judiciary and Judicial Procedure. Prior to the enactment of Title 28, section 240 of the Judicial Code was classified to section 347 of Title 28.

Reference to Court of Appeals of the District of Columbia was omitted as covered by the term "court of appeals" in view of sections 41 and 43 of Title 28, Judiciary and Judicial Procedure, which established the District of Columbia as a judicial circuit and provided for a court of appeals for each circuit. See also Change of Name note below.

CHANGE OF NAME

Act June 25, 1948, as amended by act May 24, 1949, substituted "court of appeals" for "circuit court of appeals".

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

TRANSFER OF FUNCTIONS

"Secretary of Transportation" was substituted for "Secretary of the Army" pursuant to section 6(g)(4)(E) of Pub. L. 89-670, which transferred all functions, powers, and duties of the Secretary of the Army and other offices and officers of the Department of the Army relating to reasonableness of tolls under sections 503 to 507 of this title to the Secretary of Transportation. See section 1655 of Title 49, Transportation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 503, 504, 506, 507 of this title; title 49 section 1655.

§ 506. Hearings to determine reasonableness; attendance of witnesses; punishment for failure to attend

In the execution of his functions under sections 503 to 507 of this title the Secretary of Transportation or any officer or employee designated by him, is authorized to hold hearings, examine witnesses, and receive evidence at any place designated by him, and to administer oaths and affirmations, and require by subpena the attendance and testimony of witnesses and the production of books, papers, and documents from any place in the United States. In any case[1] disobedience to any such subpena the Secretary of Transportation may invoke the aid of any court of the United States in requiring the attendance and testimony of witnesses and the production of books, papers, and documents. Any person who shall neglect or refuse to attend and testify, or to answer any lawful inquiry, or to produce books, papers, or documents, if in his power to do so, in obedience to a subpena or lawful requirement under sections 503 to 507 of this title, shall, upon conviction thereof, be punished by a fine of not to exceed $1,000 or by imprisonment for not more than one year, or by both such fine and imprisonment.

(Aug. 21, 1935, ch. 597, § 4, 49 Stat. 671; Oct. 15, 1966, Pub. L. 89-670, § 6(g)(4)(E), 80 Stat. 941; Oct. 15, 1970, Pub. L. 91-452, title II, § 235, 84 Stat. 930.)

[1] So in original. Word "of" is probably omitted.

AMENDMENTS

1970—Pub. L. 91-452 struck out the provisions relating to the immunity from prosecution of any individual compelled to testify or produce evidence, documentary or otherwise, after claiming his privilege against self-incrimination in any inquiry under this section and section 504 of this title.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-452 effective on the sixtieth day following Oct. 15, 1970, see section 260 of Pub. L. 91-452, set out as an Effective Date note under section 6001 of Title 18, Crimes and Criminal Procedure.

SAVINGS PROVISIONS

Amendment by Pub. L. 91-452 not to affect any immunity to which any individual is entitled under this section by reason of any testimony given before the sixtieth day following Oct. 15, 1970, see section 260 of Pub. L. 91-452, set out as a Savings Provisions note under section 6001 of Title 18, Crimes and Criminal Procedure.

TRANSFER OF FUNCTIONS

"Secretary of Transportation" was substituted for "Secretary of the Army" pursuant to section 6(g)(4)(E) of Pub. L. 89-670, 1966, which transferred all functions, powers, and duties of the Secretary of the Army and other offices and officers of the Department of the Army relating to reasonableness of tolls under sections 503 to 507 of this title to the Secretary of Transportation. See section 1655 of Title 49, Transportation.

For transfer of certain functions insofar as they pertain to the Air Force, and to the extent that they were not previously transferred to the Secretary of the Air Force and Department of the Air Force from the Secretary of the Army and Department of the Army, see Secretary of Defense Transfer Order No. 40, July 22, 1949.

CROSS REFERENCES

Felony and misdemeanor defined, see section 1 of Title 18, Crimes and Criminal Procedure.

Immunity of witnesses, see section 6001 et seq. of Title 18, Crimes and Criminal Procedure.

FEDERAL RULES OF CIVIL PROCEDURE

Subpena, see Rule 45, Title 28, Appendix, Judiciary and Judicial Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 503, 504, 507 of this title; title 49 section 1655.

§ 507. Failure to obey order prescribing toll; punishment

In any case where there is in effect a toll prescribed by an order issued under section 504 of this title, for passage or transit over any bridge to which sections 503 to 507 of this title apply, any person who demands or collects a toll for such passage or transit in excess of that so prescribed shall, upon conviction thereof, be punished by a fine of not to exceed $1,000 or by im-

prisonment for not more than one year, or by both such fine and imprisonment.

(Aug. 21, 1935, ch. 597, § 5, 49 Stat. 672.)

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Secretary of the Army and other offices and officers of the Department of the Army relating to reasonableness of tolls under sections 503 to 507 of this title were transferred to and vested in the Secretary of Transportation by Pub. L. 89-670, § 6(g)(4)(E), Oct. 15, 1966, 80 Stat. 941. See section 1655 of Title 49, Transportation.

CROSS REFERENCES

Felony and misdemeanor defined, see section 1 of Title 18, Crimes and Criminal Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 503, 504, 506 of this title; title 49 section 1655.

SUBCHAPTER II—ALTERATION OF BRIDGES

§ 511. Definitions

When used in this subchapter, unless the context indicates otherwise—

The term "alteration" includes changes of any kind, reconstruction, or removal in whole or in part.

The term "bridge" means a lawful bridge over navigable waters of the United States, including approaches, fenders, and appurtenances thereto, which is used and operated for the purpose of carrying railroad traffic, or both railroad and highway traffic, or if a State, county, municipality, or other political subdivision is the owner or joint owner thereof, which is used and operated for the purpose of carrying highway traffic.

The term "bridge owner" means any State, county, municipality, or other political subdivision, or any corporation, association, partnership, or individual owning, or jointly owning, any bridge, and, when any bridge shall be in the possession or under the control of any trustee, receiver, trustee in bankruptcy, or lessee, such terms shall include both the owner of the legal title and the person or the entity in possession or control of such bridge.

The term "Secretary" means the Secretary of Transportation acting directly or through the Chief of Engineers.

The term "United States", when used in a geographical sense, includes the Territories and possessions of the United States.

(June 21, 1940, ch. 409, § 1, 54 Stat. 497; July 16, 1952, ch. 889, § 1, 66 Stat. 732; Oct. 15, 1966, Pub. L. 89-670, § 6(g)(3), 80 Stat. 941.)

AMENDMENTS

1952—Act of July 16, 1952, redefined "bridge" and "bridge owner".

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

TRANSFER OF FUNCTIONS

"Secretary of Transportation" was substituted for "Secretary of the Army" pursuant to Pub. L. 89-670, § 6(g)(3), which transferred all functions, powers, and duties of the Secretary of the Army and other officers and offices of the Department of the Army relating to obstructive bridges under this subchapter to the Secretary of Transportation. See section 1655 of Title 49, Transportation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 49 section 1655.

§ 512. Obstruction of navigation

No bridge shall at any time unreasonably obstruct the free navigation of any navigable waters of the United States.

(June 21, 1940, ch. 409, § 2, 54 Stat. 498.)

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Secretary of the Army and other officers and offices of the Department of the Army relating to obstructive bridges under this subchapter were transferred to the Secretary of Transportation by Pub. L. 89-670, § 6(g)(3), Oct. 15, 1966, 80 Stat. 941. See section 1655 of Title 49, Transportation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 49 section 1655.

§ 513. Notice, hearings, and findings

Whenever any bridge shall, in the opinion of the Secretary, at any time unreasonably obstruct such navigation, it shall be the duty of the Secretary, after notice to interested parties, to hold a hearing at which the bridge owner, those interested in water navigation thereunder or therethrough, those interested in either railroad or highway traffic thereover, and any other party or parties in interest shall have full opportunity to offer evidence and be heard as to whether any alteration of such bridge is needed, and if so what alterations are needed, having due regard to the necessity of free and unobstructed water navigation and to the necessities of the rail or highway traffic. If, upon such hearing, the Secretary determines that any alterations of such bridge are necessary in order to render navigation through or under it reasonably free, easy, and unobstructed, having due regard also for the necessities of rail or highway traffic thereover, he shall so find and shall issue and cause to be served upon interested parties an order requiring such alterations of such bridge as he finds to be reasonably necessary for the purposes of navigation.

(June 21, 1940, ch. 409, § 3, 54 Stat. 498.)

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Secretary of the Army and other officers and offices of the Department of the Army relating to obstructive bridges under this subchapter were transferred to the Secretary of Transportation by Pub. L. 89-670, § 6(g)(3), Oct. 15, 1966, 80 Stat. 941. See section 1655 of Title 49, Transportation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 49 section 1655.

§ 514. Submission and approval of general plans and specifications

After the service of an order under this subchapter, it shall be the duty of the bridge owner to prepare and submit to the Secretary of Transportation, within a reasonable time as prescribed by the Secretary, general plans and specifications to provide for the alteration of such bridge in accordance with such order, and for such additional alteration of such bridge as the bridge owner may desire to meet the necessities of railroad or highway traffic, or both. The Secretary may approve or reject such general plans and specifications, in whole or in part, and may require the submission of new or additional plans and specifications, but when the Secretary shall have approved general plans and specifications, they shall be final and binding upon all parties unless changes therein be afterward approved by the Secretary and the bridge owner.

(June 21, 1940, ch. 409, § 4, 54 Stat. 498; Oct. 22, 1976, Pub. L. 94-587, § 119, 90 Stat. 2924.)

AMENDMENTS

1976—Pub. L. 94-587 substituted provision for preparation and submission of general plans and specifications within a reasonable time as prescribed by the Secretary after the service of an order for provision for such action within ninety days after service of his order.

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Secretary of the Army and other officers and offices of the Department of the Army relating to obstructive bridges under this subchapter were transferred to the Secretary of Transportation by Pub. L. 89-670, § 6(g)(3), Oct. 15, 1966, 80 Stat. 941. See section 1655 of Title 49, Transportation.

For transfer of certain functions insofar as they pertain to the Air Force, and to the extent that they were not previously transferred to the Secretary of the Air Force and Department of the Air Force from the Secretary of the Army and Department of the Army, see Secretary of Defense Transfer Order No. 40, July 22, 1949.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 49 section 1655.

§ 515. Contracts for project; guaranty of cost

After approval of such general plans and specifications by the Secretary, and after notification of such approval, the bridge owner shall, in such manner and within such times as the Secretary may prescribe, take bids for the alteration of such bridge in accordance with such general plans and specifications. All bids, including any bid for all or part of the project submitted by the bridge owner, shall be submitted to the Secretary, together with a recommendation by the bridge owner as to the most competent bid or bids, and at the same time the bridge owner shall submit to the Secretary a written guaranty that the total cost of the project, including the cost of such work as is to be performed by the bridge owner and not included in the work to be performed by contract, shall not exceed the sum stated in said guaranty. The Secretary may direct the bridge owner to reject all bids and to take new bids, or may authorize the bridge owner to proceed with the project, by contract, or partly by contract and partly by the bridge owner, or wholly by the bridge owner. Upon such authorization and fixing of the proportionate shares of the cost as provided in section 516 of this title, the bridge owner shall, within a reasonable time to be prescribed by the Secretary, proceed with the work of alteration; and the cost thereof shall be borne by the United States and by the bridge owner, as provided in sections 516 and 517 of this title: *Provided*, That where funds have been appropriated for part only of a project, the bridge owner may take bids for part only of the work. In the event the bridge owner proceeds with the alteration through the taking of successive partial bids, the bridge owner shall, if required by the Secretary, submit a revised guaranty of cost after bids are accepted for successive parts of the work.

(June 21, 1940, ch. 409, § 5, 54 Stat. 498; Aug. 14, 1958, Pub. L. 85-640, § 1(a), (b), 72 Stat. 595.)

AMENDMENTS

1958—Pub. L. 85-640 eliminated provisions which required the bridge owner to take bids within 90 days after notification of approval of general plans and specifications, and inserted provisions permitting the taking of partial bids where funds have been appropriated for part of a project, and requiring the bridge owner, if requested, to submit a revised guaranty of cost.

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Secretary of the Army and other officers and offices of the Department of the Army relating to obstructive bridges under this subchapter were transferred to the Secretary of Transportation by Pub. L. 89-670, § 6(g)(3), Oct. 15, 1966, 80 Stat. 941. See section 1655 of Title 49, Transportation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 516, 522 of this title; title 49 section 1655.

§ 516. Apportionment of cost

At the time the Secretary shall authorize the bridge owner to proceed with the project, as provided in section 515 of this title, and after an opportunity to the bridge owner to be heard thereon, the Secretary shall determine and issue an order specifying the proportionate shares of the total cost of the project to be borne by the United States and by the bridge owner. Such apportionment shall be made on the following basis: The bridge owner shall bear such part of the cost as is attributable to the direct and special benefits which will accrue to the bridge owner as a result of the alteration, including the expectable savings in repair or maintenance costs; and that part of the cost attributable to the requirements of traffic by railroad or highway, or both, including any expenditure for increased carrying capacity of the bridge, and including such proportion of the actual capital cost of the old bridge or of such part of the old bridge as may be altered or changed or rebuilt, as the used service life of the whole or a part, as the case may be, bears to the total estimated service life of the whole or such part: *Provided*, That in the event the alteration or relocation of any bridge may be desirable for the reason that the bridge unrea-

sonably obstructs navigation, but also for some other reason, the Secretary may require equitable contribution from any interested person, firm, association, corporation, municipality, county, or State desiring such alteration or relocation for such other reason, as a condition precedent to the making of an order for such alteration or relocation. The United States shall bear the balance of the cost, including that part attributable to the necessities of navigation: *And provided further,* That where the bridge owner proceeds with the alteration on a successive partial bid basis the Secretary is authorized to issue an order of apportionment of cost for the entire alteration based on the accepted bid for the first part of the alteration and an estimate of cost for the remainder of the work. The Secretary is authorized to revise the order of apportionment of cost, to the extent he deems reasonable and proper, to meet any changed conditions.

(June 21, 1940, ch. 409, § 6, 54 Stat. 499; July 16, 1952, ch. 889, § 2, 66 Stat. 733; Aug. 14, 1958, Pub. L. 85-640, § 1(c), 72 Stat. 595.)

AMENDMENTS

1958—Pub. L. 85-640 permitted the issuance of an order of apportionment of cost for the entire alteration based on the accepted bid for the first part of the alteration and an estimate of cost for the remainder of the work where the bridge owner proceeds with the alteration on a successive partial bid basis.

1952—Act July 16, 1952, made railroads share equally with the proprietors of highways in bearing the cost of alterations necessary to remove obstacles to navigation.

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Secretary of the Army and other officers and offices of the Department of the Army relating to obstructive bridges under this subchapter were transferred to the Secretary of Transportation by Pub. L. 89-670, § 6(g)(3), Oct. 15, 1966, 80 Stat. 941. See section 1655 of Title 49, Transportation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 515, 520, 523 of this title; title 49 section 1655.

§ 517. Payment of share of United States

Following service of the order requiring alteration of the bridge, the Secretary of Transportation may make partial payments as the work progresses to the extent that funds have been appropriated. The total payments out of Federal funds shall not exceed the proportionate share of the United States of the total cost of the project paid or incurred by the bridge owner, and, if such total cost exceeds the cost guaranteed by the bridge owner, shall not exceed the proportionate share of the United States of such guaranteed cost, except that if the cost of the work exceeds the guaranteed cost by reason of emergencies, conditions beyond the control of the owner, or unforeseen or undetermined conditions, the Secretary of Transportation may, after full review of all the circumstances, provide for additional payments by the United States to help defray such excess cost to the extent he deems to be reasonable and proper, and shall certify such additional payments to the Secretary of the Treasury for payment. All payments to any bridge owner herein provided for shall be made by the Secretary of the Treasury through the Fiscal Service upon certifications of the Secretary of Transportation.

(June 21, 1940, ch. 409, § 7, 54 Stat. 499; 1940 Reorg. Plan No. III, § 1(a)(1), eff. June 30, 1940, 5 F.R. 2107, 54 Stat. 1231; Aug. 14, 1958, Pub. L. 85-640, § 1(d), 72 Stat. 596; Dec. 31, 1970, Pub. L. 91-605, title I, § 118, 84 Stat. 1725.)

AMENDMENTS

1970—Pub. L. 91-605 substituted provision permitting the Secretary of Transportation to make payments for design work performed prior to the actual commencement of bridge alteration but after the order to alter has been issued for provision requiring Secretary of the Army to approve alteration plans, the cost guaranty, the fixing of proportionate shares as between the United States and bridge owner, and the commencement of the alteration, before the Chief of Engineers may make payments for bridge alteration, added reference to Secretary of Transportation in the second sentence, and substituted "Secretary of Transportation" for "Secretary of the Army" in the third sentence.

1958—Pub. L. 85-640 eliminated provisions which required the Secretary of the Army to furnish to the Secretary of the Treasury a certified copy of his approval of the plans and specifications and guaranty, and of his order fixing the proportionate shares, and which required the Secretary of the Treasury to set aside the share of the United States for the project.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

TRANSFER OF FUNCTIONS

Pub. L. 89-670, § 6(g)(3), Oct. 15, 1966, 80 Stat. 941, transferred all functions, powers and duties of the Secretary of the Army and other officers and offices of the Department of the Army relating to obstructive bridges under this subchapter, to the Secretary of Transportation. See section 1655 of Title 49, Transportation.

Reorg. Plan No. III of 1940, § 1(a)(1), June 30, 1940, 5 F.R. 2107, 54 Stat. 1231, set out in the Appendix to Title 5, Government Organization and Employees, consolidated the Division of Disbursement in the Treasury Department, and various other offices and divisions, and their functions, into one agency of the Treasury Department to be known as the Fiscal Service.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 515 of this title; title 49 section 1655.

§ 518. Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this subchapter.

(June 21, 1940, ch. 409, § 8, 54 Stat. 500.)

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Secretary of the Army and other officers and offices of the Department of the Army relating to obstructive bridges under this subchapter were transferred to the Secre-

tary of Transportation by Pub. L. 89-670, § 6(g)(3), Oct. 15, 1966, 80 Stat. 941. See section 1655 of Title 49, Transportation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 523 of this title; title 49 section 1655.

§ 519. Noncompliance with orders; penalties; removal of bridge

Any bridge owner who shall willfully fail or refuse to comply with any lawful order of the Secretary, made in accordance with the provisions of this subchapter, shall be deemed guilty of a misdemeanor and on conviction thereof shall be punished in any court of competent jurisdiction by a fine not exceeding $5,000, and every month such bridge owner shall remain in default shall be deemed a new offense and subject such bridge owner to additional penalties therefor. In addition to the penalties above prescribed the Secretary may, upon the failure or refusal of any bridge owner to comply with any lawful order issued by the Secretary in regard thereto, cause the removal of any such bridge and accessory works at the expense of the bridge owner; and suit for such expense may be brought in the name of the United States against such bridge owner and recovery had for such expense in any court of competent jurisdiction. The removal of any bridge erected or maintained in violation of the provisions of this subchapter or the order or direction of the Secretary made in pursuance thereof, and compliance with any order of the Secretary made with respect to any bridge in accordance with the provisions of this subchapter, may be enforced by injunction, mandamus, or other summary process upon application to the district court of any district in which such bridge may, in whole or in part, exist, and proper proceedings to this end may be instituted under the direction of the Attorney General of the United States at the request of the Secretary.

(June 21, 1940, ch. 409, § 9, 54 Stat. 500.)

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Secretary of the Army and other officers and offices of the Department of the Army relating to obstructive bridges under this subchapter were transferred to the Secretary of Transportation by Pub. L. 89-670, § 6(g)(3), Oct. 15, 1966, 80 Stat. 941. See section 1655 of Title 49, Transportation.

CROSS REFERENCES

Felony and misdemeanor defined, see section 1 of Title 18, Crimes and Criminal Procedure.

FEDERAL RULES OF CIVIL PROCEDURE

Writ of mandamus abolished, see Rule 81, Title 28, Appendix, Judiciary and Judicial Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 49 section 1655.

§ 520. Review of findings and orders

Any order made or issued under section 516 of this title may be reviewed by the court of appeals for any judicial circuit in which the bridge in question is wholly or partly located, if a petition for such review is filed within three months after the date such order is issued. The judgment of any such court shall be final except that it shall be subject to review by the Supreme Court of the United States upon certification or certiorari, in the manner provided in section 1254 of title 28. The review by such Court shall be limited to questions of law, and the findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive. Upon such review, such Court shall have power to affirm or, if the order is not in accordance with law, to modify or to reverse the order, with or without remanding the case for a rehearing as justice may require. Proceedings under this section shall not operate as a stay of any order of the Secretary issued under provisions of this subchapter other than section 516 of this title, or relieve any bridge owner of any liability or penalty under such provisions.

(June 21, 1940, ch. 409, § 10, 54 Stat. 501; June 25, 1948, ch. 646, § 32(a), 62 Stat. 991; May 24, 1949, ch. 139, § 127, 63 Stat. 107.)

CODIFICATION

"Section 1254 of title 28" was substituted for "sections 239 and 240 of the Judicial Code, as amended" on authority of act June 25, 1948, ch. 646, 62 Stat. 869, section 1 of which enacted Title 28, Judiciary and Judicial Procedure. Prior to the enactment of Title 28, sections 239 and 240 of the Judicial Code were classified to sections 346 and 347 of Title 28.

CHANGE OF NAME

Act June 25, 1948, as amended by act May 24, 1949, substituted "court of appeals" for "circuit court of appeals".

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Secretary of the Army and other officers and offices of the Department of the Army relating to obstructive bridges under this subchapter were transferred to the Secretary of Transportation by Pub. L. 89-670, § 6(g)(3), Oct. 15, 1966, 80 Stat. 941. See section 1655 of Title 49, Transportation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 49 section 1655.

§ 521. Regulations and orders

The Secretary is authorized to prescribe such rules and regulations, and to make and issue such orders, as may be necessary or appropriate for carrying out the provisions of this subchapter.

(June 21, 1940, ch. 409, § 11, 54 Stat. 501.)

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Secretary of the Army and other officers and offices of the Department of the Army relating to obstructive bridges under this subchapter were transferred to the Secretary of Transportation by Pub. L. 89-670, § 6(g)(3), Oct. 15, 1966, 80 Stat. 941. See section 1655 of Title 49, Transportation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 49 section 1655.

§ 522. Existing provisions of law

(a) Obstructing navigation; criminal penalties

The first sentence of section 494 of this title, and section 502 of this title, shall be inapplicable with respect to any bridge to which the pro-

visions of this subchapter are applicable, except to the extent provided in this section.

(b) Construction, reconstruction, or alteration of bridges not completed on July 1, 1939; apportionment of costs

Any bridge, the construction, reconstruction, or alteration of which was required by an order of the Secretary issued prior to July 1, 1939, and was not completed on such date, and in the case of which no penalties have accrued at the time of the enactment of this subchapter, shall be constructed, reconstructed, or altered as required by such order, and not in accordance with the provisions of this subchapter. In the case of any such bridge, however, the Secretary shall apportion the cost of the project between the bridge owner and the United States, and payment of the share of the United States shall be made, in the same manner as if the provisions of this subchapter applied to such construction, reconstruction, or alteration, subject to the following limitations:

(1) In case such construction, reconstruction, or alteration has not begun on or before April 1, 1940, such apportionment of cost shall be made only if (A) the construction, reconstruction, or alteration is carried out in accordance with plans and specifications, and pursuant to bids, approved by the Secretary, and (B) the bridge owner has submitted to the Secretary a written guaranty of cost as provided for in section 515 of this title.

(2) The Secretary's determination as to such apportionment, and as to such plans and specifications and bids, shall be final.

(3) Such apportionment shall not be made if such construction, reconstruction, or alteration is not completed within the time fixed in such order of the Secretary or within such additional time as the Secretary, for good cause shown, may allow.

(c) Construction, reconstruction, or alteration of bridges not begun on July 1, 1939

Any bridge (except a bridge to which subsection (b) of this section applies) the construction, reconstruction, or alteration of which was required by an order of the Secretary issued prior to July 1, 1939, and was not begun before such date, shall be subject to the provisions of this subchapter as though such order had not been issued, and compliance with the provisions of this subchapter and with such orders as may be issued thereunder shall be considered to constitute compliance with such order issued prior to July 1, 1939, and with the provisions of law under which it was issued.

(June 21, 1940, ch. 409, § 12, 54 Stat. 501.)

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Secretary of the Army and other officers and offices of the Department of the Army relating to obstructive bridges under this subchapter were transferred to the Secretary of Transportation by Pub. L. 89-670, § 6(g)(3), Oct. 15, 1966, 80 Stat. 941. See section 1655 of Title 49, Transportation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 49 section 1655.

§ 523. Relocation of bridges

If the owner of any bridge and the Secretary shall agree that in order to remove an obstruction to navigation, or for any other purpose, a relocation of such bridge or the construction of a new bridge upon a new location would be preferable to an alteration of the existing bridge, such relocation or new construction may be carried out at such new site and upon such terms as may be acceptable to the bridge owner and the Secretary, and the cost of such relocation or new construction, including also any expense of changes in and additions to rights-of-way, stations, tracks, spurs, sidings, switches, signals, and other railroad facilities and property, and relocation of shippers required for railroad connection with the bridge at the new site, shall be apportioned as between the bridge owner and the United States in the manner which is provided for in section 516 of this title in the case of an alteration and the share of the United States paid from the appropriation authorized in section 518 of this title: *Provided*, That nothing in this section shall be construed as requiring the United States to pay any part of the expense of building any bridge across a navigable stream which the Secretary of Transportation shall not find to be, in fact, a relocation of an existing bridge.

(June 21, 1940, ch. 409, § 13, 54 Stat. 502; July 16, 1952, ch. 889, § 4, 66 Stat. 733; Oct. 15, 1966, Pub. L. 89-670, § 6(g)(3), 80 Stat. 941.)

AMENDMENTS

1952—Act July 16, 1952, struck out "used for railroad traffic" following "owner of any bridge".

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

TRANSFER OF FUNCTIONS

"Secretary of Transportation" was substituted for "Secretary of the Army" pursuant to section 6(g)(3) of Pub. L. 89-670, which transferred all functions, powers, and duties of the Secretary of the Army and other officers and offices of the Department of the Army relating to obstructive bridges under this subchapter to the Secretary of Transportation. See section 1655 of Title 49, Transportation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 49 section 1655.

§ 524. Applicability of administrative procedure provisions

In the administration of this Act, hearings and other procedures shall be exempted from the provisions of subchapter II of chapter 5, and chapter 7, of title 5, except as to the requirements of section 552 of title 5.

(July 16, 1952, ch. 889, § 3, 66 Stat. 733.)

REFERENCES IN TEXT

This Act, referred to in text, means act July 16, 1952, ch. 889, 66 Stat. 732, which enacted this section and

amended sections 511, 516, and 523 of this title. For complete classification of this Act to the Code, see Tables volume.

CODIFICATION

Section was not enacted as part of act June 21, 1940, ch. 409, 54 Stat. 497, which comprises this subchapter.

"Subchapter II of chapter 5, and chapter 7, of title 5" and "section 552 of title 5" were substituted for "the Administrative Procedure Act" and "section 1002 of title 5", respectively, on authority of section 7(b) of Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 631, section 1 of which enacted Title 5, Government Organization and Employees.

SUBCHAPTER III—GENERAL BRIDGE AUTHORITY

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 526a of this title; title 23 section 144; title 49 section 1655.

§ 525. Construction and operation of bridges

(a) Consent of Congress

The consent of Congress is granted for the construction, maintenance, and operation of bridges and approaches thereto over the navigable waters of the United States, in accordance with the provisions of this subchapter.

(b) Approval of plans

The location and plans for such bridges shall be approved by the Chief of Engineers and the Secretary of Transportation before construction is commenced, and, in approving the location and plans of any bridge, they may impose any specific conditions relating to the maintenance and operation of the structure which they may deem necessary in the interest of public navigation, and the conditions so imposed shall have the force of law.

(c) Private highway toll bridges

Notwithstanding the provisions of subsections (a) and (b) of this section, it shall be unlawful to construct or commence the construction of any privately owned highway toll bridge until the location and plans thereof shall also have been submitted to and approved by the highway department or departments of the State or States in which the bridge and its approaches are situated; and where such bridge shall be between two or more States and the highway departments thereof shall be unable to agree upon the location and plans therefor, or if they, or either of them, shall fail or refuse to act upon the location and plans submitted, such location and plans then shall be submitted to the Bureau of Public Roads and, if approved by the Bureau of Public Roads, approval by the highway departments shall not be required.

(Aug. 2, 1946, ch. 753, title V, § 502, 60 Stat. 847; June 30, 1949, ch. 288, title I, § 103(a), 63 Stat. 380; 1949 Reorg. Plan No. 7, § 1, eff. Aug. 19, 1949, 14 F.R. 5288, 63 Stat. 1070; Oct. 15, 1966, Pub. L. 89-670, § 6(g)(6)(C), 80 Stat. 941.)

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

SHORT TITLE

Section 501 of act Aug. 2, 1946, provided that: "This title [meaning title V of such act which enacted this subchapter] may be cited as the 'General Bridge Act of 1946'."

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Secretary of the Army and other offices and officers of the Department of the Army under this section to the extent that they relate generally to the location and clearances of bridges and causeways in the navigable waters of the United States were transferred to and vested in the Secretary of Transportation by section 6(g)(6)(C) of Pub. L. 89-670. See section 1655 of Title 49, Transportation.

All functions of the Public Roads Administration were transferred to the Bureau of Public Roads within the General Services Administration by section 103(a) of act June 30, 1949. Section 103 is set out as section 753 of Title 40, Public Buildings, Property, and Works.

The Bureau of Public Roads within the General Services Administration, was transferred to the Department of Commerce by section 1 of Reorg. Plan No. 7 of 1949.

For transfer of functions of other officers, employees, and agencies of the Department of Commerce, with certain exceptions, to the Secretary of Commerce, with power to delegate, see Reorg. Plan No. 5 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1263, set out in the Appendix to Title 5, Government Organization and Employees.

All functions, powers, and duties of the Secretary of Commerce and other offices and officers of the Department of Commerce under subsec. (c) of this section relating generally to highways were transferred to and vested in the Secretary of Transportation by section 6(g)(6)(C) of Pub. L. 89-670. See section 1655 of Title 49, Transportation.

RESERVATION OF RIGHT TO ALTER, AMEND, OR REPEAL

Section 511 of act Aug. 2, 1946, provided that: "The right to alter, amend, or repeal this title [this subchapter] is hereby expressly reserved as to any and all bridges which may be built under authority hereof [this subchapter]."

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 7-526 of the District of Columbia Code.

§ 526. Amount of tolls

If tolls shall be charged for the transit over any interstate bridge of engines, cars, street cars, wagons, carriages, vehicles, animals, foot passengers, or other passengers, such tolls shall be reasonable and just, and the Secretary of Transportation may, at any time, and from time to time, prescribe the reasonable rates of toll for such transit over such bridge, and the rates so prescribed shall be the legal rates and shall be the rates demanded and received for such transit.

(Aug. 2, 1946, ch. 753, title V, § 503, 60 Stat. 847; Oct. 15, 1966, Pub. L. 89-670, § 6(g)(4)(B), 80 Stat. 941.)

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed

by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

TRANSFER OF FUNCTIONS

"Secretary of Transportation" was substituted for "Secretary of the Army" pursuant to section 6(g)(4)(B) of Pub. L. 89-670, which transferred all functions, powers, and duties of the Secretary of the Army and other offices and officers of the Department of the Army under this section to the extent that they relate generally to the location and clearances of bridges and causeways in the navigable waters of the United States and to the reasonableness of tolls, to the Secretary of Transportation. See section 1655 of Title 49, Transportation.

§ 526a. Regulations; increment guidelines

The Secretary of Transportation shall promulgate regulations establishing guidelines governing any increase in tolls for use of any bridge constructed pursuant to either the General Bridge Act of 1906 [33 U.S.C. 491 et seq.] or the General Bridge Act of 1946 [33 U.S.C. 525 et seq.].

(Pub. L. 93-87, title I, § 133(b), Aug. 13, 1973, 87 Stat. 267.)

REFERENCES IN TEXT

The General Bridge Act of 1906, referred to in text, probably means act Mar. 23, 1906, ch. 1130, 34 Stat. 84, popularly known as the Bridge Act of 1906, which enacted sections 491 to 498 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 491 of this title and Tables volume.

The General Bridge Act of 1946, referred to in text, is act Aug. 2, 1946, ch. 753, title V, 60 Stat. 847, as amended, which is classified generally to this subchapter (§ 525 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 525 of this title and Tables volume.

CODIFICATION

Section was not enacted as part of act Aug. 2, 1946, ch. 753, title V, 60 Stat. 847, known as the General Bridge Act of 1946, which comprises this subchapter.

STUDY OF TOLL BRIDGE AUTHORITY; INVESTIGATION AND STUDY OF FEDERAL STATUTES AND REGULATIONS; REPORT TO CONGRESS

Section 133(a) of Pub. L. 93-87 authorized the Secretary of Transportation to study the existing Federal laws and regulations governing toll bridges over navigable waters of the United States, and to submit a report containing recommendations regarding action to be taken to assure reasonable nationwide tolls no later than July 1, 1974, except in the case of the toll bridge at Chester, Illinois, where the Secretary was authorized to submit a similar report no later than Dec. 31, 1973.

§ 527. Acquisition of interstate bridges by public agencies; amount of damages

After the completion of any interstate toll bridge constructed by an individual, firm, or corporation, as determined by the Secretary of the Army, either of the States in which the bridge is located, or any public agency or political subdivision of either of such States, within or adjoining which any part of such bridge is located, or any two or more of them jointly, may at any time acquire and take over all right, title, and interest in such bridge and its approaches, and any interest in real property for public purposes by condemnation or expropriation. If at any time after the expiration of five years after the completion of such bridge the same is acquired by condemnation or expropriation, the amount of damages or compensation to be allowed shall not include good will, going value, or prospective revenues or profits, but shall be limited to the sum of (1) the actual cost of constructing such bridge and its approaches, less a reasonable deduction for actual depreciation in value; (2) the actual costs of acquiring such interests in real property; (3) actual financing and promotion costs, not to exceed 10 per centum of the sum of the cost of constructing the bridge and its approaches and acquiring such interests in real property; and (4) actual expenditures for necessary improvements.

(Aug. 2, 1946, ch. 753, title V, § 504, 60 Stat. 848.)

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Secretary of the Army and other offices and officers of the Department of the Army under this subchapter to the extent that they relate generally to the location and clearances of bridges and causeways in the navigable waters of the United States were transferred to and vested in the Secretary of Transportation by Pub. L. 89-670, § 6(g)(6)(C), Oct. 15, 1966, 80 Stat. 941. See section 1655 of Title 49, Transportation.

§ 528. Statement of construction costs of privately owned interstate bridges; investigation of costs; conclusiveness of findings; review

Within ninety days after the completion of a privately owned interstate toll bridge, the owner shall file with the Secretary of the Army and with the highway departments of the States in which the bridge is located, a sworn itemized statement showing the actual original cost of constructing the bridge and its approaches, the actual cost of acquiring any interest in real property necessary therefor, and the actual financing and promotion costs. The Secretary of the Army may, and upon request of a highway department shall, at any time within three years after the completion of such bridge, investigate such costs and determine the accuracy and the reasonableness of the costs alleged in the statement of costs so filed, and shall make a finding of the actual and reasonable costs of constructing, financing, and promoting such bridge. For the purpose of such investigation the said individual, firm, or corporation, its successors and assigns, shall make available all of its records in connection with the construction, financing, and promotion thereof. The findings of the Secretary of the Army as to the reasonable costs of the construction, financing, and promotion of the bridge shall be conclusive

for the purposes mentioned in section 527 of this title subject only to review in a court of equity for fraud or gross mistake.

(Aug. 2, 1946, ch. 753, title V, § 505, 60 Stat. 848.)

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Secretary of the Army and other offices and officers of the Department of the Army under this subchapter to the extent that they relate generally to the location and clearances of bridges and causeways in the navigable waters of the United States were transferred to and vested in the Secretary of Transportation by Pub. L. 89-670, § 6(g)(6)(C), Oct. 15, 1966, 80 Stat. 941. See section 1655 of Title 49, Transportation.

§ 529. Sinking funds; rate of tolls, cancellation of tolls

If tolls are charged for the use of an interstate bridge constructed or taken over or acquired by a State or States or by any municipality or other political subdivision or public agency thereof, under the provisions of this subchapter, the rates of toll shall be so adjusted as to provide a fund sufficient to pay for the reasonable cost of maintaining, repairing, and operating the bridge and its approaches under economical management, and to provide a sinking fund sufficient to amortize the amount paid therefor, including reasonable interest and financing cost, as soon as possible under reasonable charges, but within a period of not to exceed thirty years from the date of completing or acquiring the same. After a sinking fund sufficient for such amortization shall have been so provided, such bridge shall thereafter be maintained and operated free of tolls. An accurate record of the amount paid for acquiring the bridge and its approaches, the actual expenditures for maintaining, repairing, and operating the same, and of the daily tolls collected, shall be kept and shall be available for the information of all persons interested.

(Aug. 2, 1946, ch. 753, title V, § 506, 60 Stat. 848; May 25, 1948, ch. 336, 62 Stat. 267.)

AMENDMENTS

1948—Act May 25, 1948, extended the amortization period from 20 to 30 years.

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Secretary of the Army and other offices and officers of the Department of the Army under this subchapter to the extent that they relate generally to the location and clearances of bridges and causeways in the navigable waters of the United States were transferred to and vested in the Secretary of Transportation by Pub. L. 89-670, § 6(g)(6)(C), Oct. 15, 1966, 80 Stat. 941. See section 1655 of Title 49, Transportation.

§ 530. Bridges included and excluded

The provisions of this subchapter shall apply only to bridges over navigable waters of the United States, the construction of which is approved after August 2, 1946, under the provisions of this subchapter; and the provisions of the first proviso of section 401 of this title, and the provisions of sections 491 to 498 of this title, shall not apply to such bridges.

(Aug. 2, 1946, ch. 753, title V, § 507, 60 Stat. 849.)

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Secretary of the Army and other offices and officers of the Department of the Army under this subchapter to the extent that they relate generally to the location and clearances of bridges and causeways in the navigable waters of the United States were transferred to and vested in the Secretary of Transportation by Pub. L. 89-670, § 6(g)(6)(C), Oct. 15, 1966, 80 Stat. 941. See section 1655 of Title 49, Transportation.

§ 531. International bridges

This subchapter shall not be construed to authorize the construction of any bridge which will connect the United States, or any Territory or possession of the United States, with any foreign country.

(Aug. 2, 1946, ch. 753, title V, § 508, 60 Stat. 849.)

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Secretary of the Army and other offices and officers of the Department of the Army under this subchapter to the extent that they relate generally to the location and clearances of bridges and causeways in the navigable waters of the United States were transferred to and vested in the Secretary of Transportation by Pub. L. 89-670, § 6(g)(6)(C), Oct. 15, 1966, 80 Stat. 941. See section 1655 of Title 49, Transportation.

§ 532. Eminent domain

There are conferred upon any individual, his heirs, legal representatives, or assigns, any firm or corporation, its successors or assigns, or any State, political subdivision, or municipality authorized in accordance with the provisions of this subchapter to build a bridge between two or more States, all such rights and powers to enter upon lands and acquire, condemn, occupy, possess, and use real estate and other property in the respective States needed for the location, construction, operation, and maintenance of such bridge and its approaches, as are possessed by railroad corporations for railroad purposes or by bridge corporations for bridge purposes in the State in which such real estate or other property is situated, upon making just compensation therefor to be ascertained and paid according to the laws of such State, and the proceedings therefor shall be the same as in the condemnation or expropriation of property for public purposes in such State.

(Aug. 2, 1946, ch. 753, title V, § 509, 60 Stat. 849.)

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Secretary of the Army and other offices and officers of the Department of the Army under this subchapter to the extent

that they relate generally to the location and clearances of bridges and causeways in the navigable waters of the United States were transferred to and vested in the Secretary of Transportation by Pub. L. 89-670, § 6(g)(6)(C), Oct. 15, 1966, 80 Stat. 941. See section 1655 of Title 49, Transportation.

§ 533. Penalties

Any person who fails or refuses to comply with any lawful order of the Secretary of the Army or the Chief of Engineers issued under the provisions of this subchapter, or who fails to comply with any specific condition imposed by the Chief of Engineers and the Secretary of the Army relating to the maintenance and operation of bridges, or who refuses to produce books, papers, or documents in obedience to a subpena or other lawful requirement under this subchapter, or who otherwise violates any provisions of this subchapter, shall, upon conviction thereof, be punished by a fine of not to exceed $5,000 or by imprisonment for not more than one year, or by both such fine and imprisonment.

(Aug. 2, 1946, ch. 753, title V, § 510, 60 Stat. 849.)

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Secretary of the Army and other offices and officers of the Department of the Army under this subchapter to the extent that they relate generally to the location and clearances of bridges and causeways in the navigable waters of the United States were transferred to and vested in the Secretary of Transportation by Pub. L. 89-670, § 6(g)(6)(C), Oct. 15, 1966, 80 Stat. 941. See section 1655 of Title 49, Transportation.

CROSS REFERENCES

Felony and misdemeanor defined, see section 1 of Title 18, Crimes and Criminal Procedure.

§ 534. Conveyance of right, title, and interest of United States in bridges transferred to States or political subdivisions; terms and conditions

The Secretary of the Army is authorized to transfer or convey to State authorities or political subdivisions thereof all right, title, and interest of the United States, in and to any and all bridges heretofore or hereafter constructed or acquired in connection with the improvement of canals, rivers and harbors, or works of flood control, together with the necessary lands, easements, or rights-of-way, upon such terms and conditions and with or without consideration, as may be determined to be in the best interest of the United States by the Chief of Engineers: *Provided*, That such transferred bridges shall be toll-free.

(May 17, 1950, ch. 188, title I, § 109, 64 Stat. 168.)

CODIFICATION

Section was not enacted as part of act Aug. 2, 1946, ch. 753, title V, 60 Stat. 847, known as the General Bridge Act of 1946, which comprises this subchapter.

SUBCHAPTER IV—INTERNATIONAL BRIDGES

§ 535. Congressional consent to construction, maintenance, and operation of international bridges; conditions of consent

The consent of Congress is hereby granted to the construction, maintenance, and operation of any bridge and approaches thereto, which will connect the United States with any foreign country (hereinafter in this subchapter referred to as an "international bridge") and to the collection of tolls for its use, so far as the United States has jurisdiction. Such consent shall be subject to (1) the approval of the proper authorities in the foreign country concerned; (2) the provisions of sections 491 to 498 of this title, except section 496 of this title, whether or not such bridge is to be built across or over any of the navigable waters of the United States; and (3) of the provisions of this subchapter.

(Pub. L. 92-434, § 2, Sept. 26, 1972, 86 Stat. 731.)

SHORT TITLE

Section 1 of Pub. L. 92-434 provided: "That this Act [which enacted this subchapter and amended section 129(a)(3) of Title 23, Highways] may be cited as the 'International Bridge Act of 1972'."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 535b of this title.

§ 535a. Congressional consent to State agreements with Canada and Mexico; Secretary of State's approval of agreements

The consent of Congress is hereby granted for a State or a subdivision or instrumentality thereof to enter into agreements—

(1) with the Government of Canada, a Canadian Province, or a subdivision or instrumentality of either, in the case of a bridge connecting the United States and Canada, or

(2) with the Government of Mexico, a Mexican State, or a subdivision or instrumentality of either, in the case of a bridge connecting the United States and Mexico,

for the construction, operation, and maintenance of such bridge in accordance with the applicable provisions of this subchapter. The effectiveness of such agreement shall be conditioned on its approval by the Secretary of State.

(Pub. L. 92-434, § 3, Sept. 26, 1972, 86 Stat. 731.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 535f of this title.

§ 535b. Presidential approval; recommendations of Federal officials

No bridge may be constructed, maintained, and operated as provided in section 535 of this title unless the President has given his approval thereto. In the course of determining whether to grant such approval, the President shall

secure the advice and recommendations of (1) the United States section of the International Boundary and Water Commission, United States and Mexico, in the case of a bridge connecting the United States and Mexico, and (2) the heads of such departments and agencies of the Federal Government as he deems appropriate to determine the necessity for such bridge.

(Pub. 92-434, § 4, Sept. 26, 1972, 86 Stat. 731).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 535c of this title.

§ 535c. Secretary of Transportation's approval; commencement and completion requirements; extension of time limits

The approval of the Secretary of Transportation, as required by section 491 of this title, shall be given only subsequent to the President's approval, as provided for in section 535b of this title, and shall be null and void unless the construction of the bridge is commenced within two years and completed within five years from the date of the Secretary's approval: *Provided, however,* That the Secretary, for good cause shown, may extend for a reasonable time either or both of the time limits herein provided.

(Pub. L. 92-434, § 5, Sept. 26, 1972, 86 Stat. 732.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 535h of this title.

§ 535d. Tolls, collection methods; annual report; audit

If tolls are charged for the use of an international bridge constructed under this subchapter, the following provisions shall apply, so far as the United States has jurisdiction, in the case of a bridge constructed or acquired by a private individual, company, or other private entity:

(1) Tolls may be collected from the date of completion of the bridge for a period determined by the Secretary of Transportation to be a reasonable period for amortization of the cost of construction or acquisition of the bridge, including interest and financing costs, and a reasonable return on invested capital.

(2) At the end of such period, the United States portion of the bridge and its approaches, if not previously transferred to a public agency pursuant to section 535e of this title, shall become the property of the State having jurisdiction over the United States portion of the bridge, and no further compensation shall be deemed to be due such private individual, company, or other private entity.

(3) An accurate record of the amount paid for acquiring or constructing the bridge and its approaches, the actual expenditures for maintaining, repairing, and operating the same, and of the daily tolls collected, shall be kept and shall be reported annually to the Secretary of Transportation. Whenever he may deem advisable, the Secretary of Transportation shall audit, review, and inspect such records, books, accounts, and operations.

(Pub. L. 92-434, § 6, Sept. 26, 1972, 86 Stat. 732.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 535e of this title.

§ 535e. Ownership

(a) Sale, assignment, or transfer; Secretary of Transportation's approval

Nothing in this subchapter shall be deemed to prevent the individual, corporation, or other entity to which, pursuant to this subchapter, authorization has been given to construct, operate, and maintain an international bridge and the approaches thereto, from selling, assigning, or transferring the rights, powers, and privileges conferred by this subchapter: *Provided,* That such sale, assignment, or transfer shall be subject to approval by the Secretary of Transportation.

(b) State status of original applicant upon acquisition of right, title, and interest after termination of private entity licenses, contracts, or orders

Upon the acquisition by a State or States, or by a subdivision or instrumentality thereof, of the right, title, and interest of a private individual, corporation, or other private entity, and to an international bridge, any license, contract, or order issued or entered into by the Secretary of Transportation, to or with such private individual, corporation, or other private entity, shall be deemed terminated forthwith. Thereafter, the State, subdivision, or instrumentality so acquiring shall operate and maintain such bridge in the same manner as if it had been the original applicant, and the provisions of section 535d of this title shall not apply.

(Pub. L. 92-434, § 8, Sept. 26, 1972, 86 Stat. 732.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 535d of this title.

§ 535f. Applicability of provisions

This subchapter shall apply to all international bridges constructed under the authority of this subchapter. Section 535a of this title and section 129(a)(3) of title 23, shall apply to all international bridges the construction of which has been heretofore approved by Congress, notwithstanding any conflicting provision in any Act authorizing the construction of such a bridge or in any agreement entered into by the Federal Government and a State.

(Pub. L. 92-434, § 9, Sept. 26, 1972, 86 Stat. 733.)

§ 535g. Federal navigable waters and commerce jurisdiction unaffected

Nothing in this subchapter shall be construed to affect, impair, or diminish any right, power, or jurisdiction of the United States over or in regard to any navigable water or any interstate or foreign commerce.

(Pub. L. 92-434, § 10, Sept. 26, 1972, 86 Stat. 733.)

§ 535h. Report of Secretary of Transportation's approval during fiscal year

The Secretary of Transportation shall make a report of all approvals granted by him during the fiscal year pursuant to section 535c of this

title in each annual report of the activities of the Department required by section 1658 of title 49.

(Pub. L. 92-434, § 11, Sept. 26, 1972, 86 Stat. 733.)

§ 535i. Reservation of right to alter or repeal

The right to alter, amend, or repeal this subchapter is expressly reserved.

(Pub. L. 92-434, § 12, Sept. 26, 1972, 86 Stat. 733.)

CHAPTER 12—RIVER AND HARBOR IMPROVEMENTS GENERALLY

SUBCHAPTER I—GENERAL PROVISIONS

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597. Acquisition of lands for water resource development projects; information as to probable timing for acquisition; public meetings; regulations.
598. Resettlement of displaced families, individuals, and business concerns.
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628. Expenditure for dredging within harbor lines.
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632. Written contracts; application to contracts relating to river and harbor improvements.
633. Protection, alteration, reconstruction, relocation, or replacement of structures and facilities; contract standards; reasonable costs.

SUBCHAPTER I—GENERAL PROVISIONS

§ 540. Investigations and improvements; control by Department of the Army; wildlife conservation

Federal investigations and improvements of rivers, harbors, and other waterways shall be under the jurisdiction of and shall be prosecuted by the Department of the Army under the direction of the Secretary of the Army and the supervision of the Chief of Engineers, except as otherwise specifically provided by Act of Congress, which said investigations and improvements shall include a due regard for wildlife conservation.

(June 20, 1938, ch. 535, § 1, 52 Stat. 802.)

Prior Provisions

Acts Aug. 30, 1935, ch. 831, 49 Stat. 1028; Aug. 26, 1937, ch. 832, 50 Stat. 844, contained similar provisions.

Change of Name

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

Waterway Improvements Study and Report; Availability of Data to National Transportation Policy Commission

Pub. L. 94-587, § 158, Oct. 22, 1976, 90 Stat. 2933, provided that: "The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to make a comprehensive study and report on the system of waterway improvements under his jurisdiction. The study shall include a review of the existing system and its capability for meeting the national needs including emergency and defense requirements and an appraisal of additional improvements necessary to optimize the system and its intermodal characteristics. The Secretary of the Army, acting through the Chief of Engineers, shall submit a report to Congress on this study, within three years after funds are first appropriated and made available for the study, together with his recommendations. The Secretary of

the Army, acting through the Chief of Engineers, shall, upon request, from time to time make available to the National Transportation Policy Study Commission established by section 154 of Public Law 94-280 [set out as a note under section 101 of Title 23, Highways], the information and other data developed as a result of the study."

REIMBURSEMENT OF STATES FOR WATER RESOURCES PROJECTS; STUDY

Pub. L. 89-298, title III, § 314, Oct. 27, 1965, 79 Stat. 1096, authorized the Secretary of the Army, through the Chief of Engineers, to study the need for and feasibility of Federal reimbursement of certain public entities for their expenses incurred in connection with authorized projects for improvements of rivers, harbors, and certain other waterways, for various purposes, and to submit a report to Congress no later than Jan. 31, 1967, together with his recommendations in connection therewith.

NICARAGUA CANAL

Act June 20, 1938, ch. 535, § 12, 52 Stat. 808, provided for the continuation of the study on the practicability of a Nicaragua Canal.

Act Mar. 2, 1929, ch. 584, 45 Stat. 1539, appropriated $150,000 for a survey as to the most practical route for a canal across the Republic of Nicaragua.

Act Mar. 4, 1928, ch. 707, 45 Stat. 1667, made appropriation for determining the practicability, necessity, and cost of a Nicaragua Canal.

CROSS REFERENCES

Flood control projects, supervision of, see section 701b of this title.

§ 541. Board of Engineers for Rivers and Harbors; establishment; duties and powers generally

There shall be organized in the office of the Chief of Engineers, United States Army, by detail from time to time from the Corps of Engineers, a board of seven engineer officers, a majority of whom shall be of rank not less than lieutenant colonel, whose duties shall be fixed by the Chief of Engineers, and to whom shall be referred for consideration and recommendation, in addition to any other duties assigned, so far as in the opinion of the Chief of Engineers may be necessary, all reports upon examinations and surveys provided for by Congress, and all projects or changes in projects for works of river and harbor improvement prior to June 13, 1902, or thereafter provided for. And the board shall submit to the Chief of Engineers recommendations as to the desirability of commencing or continuing any and all improvements upon which reports are required. And in the consideration of such works and projects the board shall have in view the amount and character of commerce existing or reasonably prospective which will be benefited by the improvement, and the relation of the ultimate cost of such work, both as to cost of construction and maintenance, to the public commercial interests involved, and the public necessity for the work and propriety of its construction, continuance, or maintenance at the expense of the United States. And such consideration shall be given as time permits to such works as have, prior to June 13, 1902, been provided for by Congress, the same as in the case of new works proposed. The board shall, when it considers the same necessary, and with the sanction and under orders from the Chief of Engineers, make, as a board or through its members, personal examinations of localities. And all facts, information, and arguments which are presented to the board for its consideration in connection with any matter referred to it by the Chief of Engineers shall be reduced to and submitted in writing, and made a part of the records of the office of the Chief of Engineers. It shall further be the duty of said board, upon a request transmitted to the Chief of Engineers by the Committee on Public Works and Transportation of the House of Representatives, or the Committee on Environment and Public Works of the Senate, in the same manner to examine and report through the Chief of Engineers upon any projects adopted, prior to June 13, 1902, by the Government or upon which appropriations have been made, and report upon the desirability of continuing the same or upon any modifications thereof which may be deemed desirable. As used in this section the term "commerce" shall include the use of waterways by seasonal passenger craft, yachts, house boats, fishing boats, motor boats, and other similar water craft, whether or not operated for hire.

The board shall have authority, with the approval of the Chief of Engineers, to rent quarters, if necessary, for the proper transaction of its business, and to employ such civil employees as may, in the opinion of the Chief of Engineers, be required for properly transacting the business assigned to it, and the necessary expenses of the board shall be paid from allotments made by the Chief of Engineers from any appropriations made by Congress for the work or works to which the duties of the board pertain.

(June 13, 1902, ch. 1079, § 3, 32 Stat. 372; Mar. 4, 1913, ch. 144, § 4, 37 Stat. 826; Feb. 10, 1932, ch. 26, 47 Stat. 42; Aug. 2, 1946, ch. 753, title I, §§ 102, 121, 60 Stat. 814, 822; H. Res. 988, Oct. 8, 1974; S. Res. 4, Feb. 4, 1977.)

CODIFICATION

The original text of section 3 of act June 13, 1902, provided for "a board of five engineer officers, whose duties shall be fixed by the Chief of Engineers." Act Mar. 4, 1913, provided "that said board shall consist of seven members, a majority of whom shall be of rank not less than lieutenant colonel."

Other parts of section 4 of act Mar. 4, 1913, are set out in section 542 of this title.

AMENDMENTS

1932—Act Feb. 10, 1932, added sentence defining "commerce".

REORGANIZATION OF CONGRESSIONAL COMMITTEES

Under act Aug. 2, 1946, matters relating to the improvement of rivers and harbors are referred to the Committees on Public Works of the Senate and the House of Representatives, in lieu of the House Committee on Rivers and Harbors and the Senate Committee on Commerce.

The Committee on Public Works of the House of Representatives was changed to the Committee on Public Works and Transportation of the House of Representatives, effective Jan. 3, 1975, by House Resolution 988, 93d Congress.

The Committee on Public Works of the Senate was abolished and replaced by the Committee on Environment and Public Works of the Senate, effective Feb. 11, 1977. See Rule XXV of the Standing Rules of the Senate, as amended by Senate Resolution 4 (popularly cited as the "Committee System Reorganization Amendments of 1977"), approved Feb. 4, 1977.

WATERWAYS COMMISSION

Act Aug. 8, 1917, ch. 49, § 18, 40 Stat. 269, created a commission to be known as the Waterways Commission, to bring into coordination and cooperation the engineering, scientific, and constructive services, bureaus, boards, etc., relating to study development, or control of waterways, etc. It was repealed by act June 10, 1920, ch. 285, § 29, 41 Stat. 1077.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 426-3, 542 of this title.

§ 542. Review by Board of Engineers of reports on examinations and surveys and special reports

All reports on examinations and surveys authorized by law shall be reviewed by the Board of Engineers for Rivers and Harbors as provided for in section 541 of this title, and all special reports ordered by Congress shall, in the discretion of the Chief of Engineers, be reviewed in like manner by said board; and the said board shall also, on request by resolution of the Committee on Environment and Public Works of the Senate or the Committee on Public Works and Transportation of the House of Representatives, submitted to the Chief of Engineers, examine and review the report of any examination or survey made pursuant to any Act or resolution of Congress, and report thereon through the Chief of Engineers, United States Army, who shall submit his conclusions thereon as in other cases: *Provided*, That in no case shall the board, in its report thus called for by committee resolution, extend the scope of the project contemplated in the original report upon which its examination and review has been requested, or in the provision of law authorizing the original examination or survey.

(Mar. 4, 1913, ch. 144, § 4, 37 Stat. 826; Aug. 2, 1946, ch. 753, title I, §§ 102, 121, 60 Stat. 814, 822; H. Res. 988, Oct. 8, 1974; S. Res. 4, Feb. 4, 1977.)

CODIFICATION

Section was from part of section 4 of act Mar. 4, 1913, popularly known as the Rivers and Harbors Act of 1913. The last proviso of said section 4 is set out in section 541 of this title.

SECRETARY OF THE AIR FORCE

For transfer of certain functions insofar as they pertain to the Air Force, and to the extent that they were not previously transferred to the Secretary of the Air Force and Department of the Air Force from the Secretary of the Army and Department of the Army, see Secretary of Defense Transfer Order No. 40, July 22, 1949.

REORGANIZATION OF CONGRESSIONAL COMMITTEES

Under act Aug. 2, 1946, matters relating to the improvement of rivers and harbors are referred to the Committees on Public Works of the Senate and the House of Representatives, in lieu of the Senate Committee on Commerce and the House Committee on Rivers and Harbors.

The Committee on Public Works of the House of Representatives was changed to the Committee on Public Works and Transportation of the House of Representatives, effective Jan. 3, 1975, by House Resolution 988, 93d Congress.

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§ 543. Employment of civil engineers on western and northwestern rivers

The Chief of Engineers may, with the approval of the Secretary of the Army, employ such civil engineers, not exceeding five in number, for the purpose of executing the surveys and improvements of western and northwestern rivers, ordered by Congress, as may be necessary to the proper and diligent prosecution of the same; and the persons so employed may be allowed a reasonable compensation for their services, not to exceed the sum of $3,000 a year.

(R.S. § 5253.)

CODIFICATION

R.S. § 5253 is from Res. Mar. 29, 1867, No. 27, 15 Stat. 28.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

TRANSFER OF FUNCTIONS

For transfer of certain functions insofar as they pertain to the Air Force, and to the extent that they were not previously transferred to the Secretary of the Air Force and Department of the Air Force from the Secretary of the Army and Department of the Army, see Secretary of Defense Transfer Order No. 40, July 22, 1949.

§ 544. Repealed. Aug. 19, 1968, Pub. L. 88-448, § 402(a)(9), 78 Stat. 493

Section, act June 3, 1896, ch. 314, § 7, 29 Stat. 235, related to the employment of retired officers of the Army or Navy on river and harbour improvements. See section 5532 of Title 5, Government Organization and Employees.

§ 544a. Repealed. Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 650

Section, act June 20, 1938, ch. 535, § 5, 52 Stat. 805, related to employment of retired civil service employees.

§ 544b. Employment of physicians to examine employees; fee or employment basis; validation of prior agreements

The Chief of Engineers may authorize the employment of physicians under agreement, to make such physical examinations of employees or prospective employees as he may consider essential, on a fee or regular employment basis, and all agreements entered into prior to March 2, 1945, for such purposes are validated, and the Comptroller General is authorized and directed to allow credit in the accounts of disbursing officers for reasonable payments made prior to March 2, 1945, for such services.

(Mar. 2, 1945, ch. 19, § 5, 59 Stat. 24.)

TRANSFER OF FUNCTIONS

For transfer of certain functions insofar as they pertain to the Air Force, and to the extent that they were not previously transferred to the Secretary of the Air Force and Department of the Air Force from the Secretary of the Army and Department of the Army, see Secretary of Defense Transfer Order No. 40, July 22, 1949.

§ 544c. Minority group participation in construction of the Tennessee-Tombigbee Waterway project; annual report to Congress

The Secretary of the Army, acting through the Chief of Engineers, is directed to make a maximum effort to assure the full participation of members of minority groups, living in the States participating in the Tennessee-Tombigbee Waterway Development Authority, in the construction of the Tennessee-Tombigbee Waterway project, including actions to encourage the use, wherever possible, of minority owned firms. The Chief of Engineers is directed to report on July 1 of each year to the Congress on the implementation of this section, together with recommendation for any legislation that may be needed to assure the fuller and more equitable participation of members of minority groups in this project or others under the direction of the Secretary.

(Pub. L. 94-587, § 185, Oct. 22, 1976, 90 Stat. 2941.)

§ 545. Preliminary examinations and reports; surveys; contents of report to Congress generally

In all cases where preliminary examinations and surveys are authorized a preliminary examination of the river, harbor, or other proposed improvement mentioned shall first be made and a report as to the advisability of its improvement shall be submitted unless a survey or estimate is expressly directed. If upon such preliminary examination the proposed improvement is not deemed advisable, no further action shall be taken thereon without the further direction of Congress; but in case the report shall be favorable to such proposed improvement, or that a survey and estimate should be made to determine the advisability of improvement, the Secretary of the Army is authorized, in his discretion, to cause surveys to be made, and the cost and advisability to be reported to Congress. And such reports containing plans and estimates shall also contain a statement as to the rate at which the work should be prosecuted: *Provided*, That every report submitted to Congress, in addition to full information regarding the present and prospective commercial importance of the project covered by the report and the benefit to commerce likely to result from any proposed plan of improvement, shall also contain such data as it may be practicable to secure in regard to the following subjects:

(a) The existence and establishment of both private and public terminal and transfer facilities contiguous to the navigable water proposed to be improved, and, if water terminals have been constructed, the general location, description, and use made of the same, with an opinion as to their adequacy and efficiency, whether private or public. If no public terminals have been constructed, or if they are inadequate in number, there shall be included in the report an opinion in general terms as to the necessity, number, and appropriate location of the same, and also the necessary relations of such proposed terminals to the development of commerce.

(b) The development and utilization of water power for industrial and commercial purposes.

(c) Such other subjects as may be properly connected with such project: *Provided*, That in the investigation and study of these questions consideration shall be given only to their bearing upon the improvement of navigation, to the possibility and desirability of their being coordinated in a logical and proper manner with improvements for navigation to lessen the cost of such improvements and to compensate the Government for expenditures made in the interest of navigation, and to their relation to the development and regulation of commerce: *Provided further*, That the investigation and study of these questions may, upon review by the Board of Engineers for Rivers and Harbors when called for as provided by law, be extended to any work of improvement under way and to any locality the examination and survey of which has heretofore been, or may hereafter be, authorized by Congress.

(Mar. 4, 1913, ch. 144, § 3, 37 Stat. 825.)

CODIFICATION

This section and the second paragraph of section 556 of this title were from section 3 of act Mar. 4, 1913, popularly known as the Rivers and Harbors Appropriation Act of 1913. That section superseded similar provisions of act June 25, 1910, ch. 382, § 3, 36 Stat. 668, for reports, investigations on review by the board of Engineers and for the printing of reports.

PRIOR PROVISIONS

Provision for report of examinations of river and harbor improvements appeared in R.S. § 231, repealed by act Mar. 3, 1933, ch. 202, § 1, 47 Stat. 1428, and read as follows: "The Secretary of War shall cause to be prepared and submitted to Congress, in connection with the reports of examinations and surveys of rivers and harbors hereafter made by order of Congress, full statements of all existing facts tending to show to what extent the general commerce of the country will be promoted by the several works of improvements contemplated by such examinations and surveys, to the end that public moneys shall not be applied excepting where such improvements shall tend to subserve the general commercial and navigation interests of the United States."

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

TEMPORARY PROHIBITORY PROVISIONS

Provisions prohibiting supplemental reports or estimates, prohibiting the making of examination or survey for new works not designated, and providing that projects were not to be deemed entered upon until appropriations were made, appeared in various rivers and harbors appropriation acts. They are omitted from the Code as superseded or temporary.

REPORT ON IMPROVEMENTS FOR COASTAL DEFENSE PURPOSES

The Secretary of War and the Secretary of the Navy were authorized and directed to report to Congress at the earliest practicable date, such specific plans for improvement of harbors, canals and connecting channels as would best provide adequate facilities for operations of the fleet for defense of the harbors on the Atlantic, Gulf, and Pacific coasts; also the feasible extensions requisite to make existing approved projects for improvement of such harbors, canals, and channels available for such purposes, and the cost of each such several improvements, calculated upon the basis of completion under contract within five years, by act Aug. 29, 1916, ch. 417, 39 Stat. 556, omitted from the Code as special and temporary.

PRELIMINARY EXAMINATIONS AND SURVEYS OF GREAT LAKES

The Secretary of War was directed to cause preliminary examinations and surveys to be made of the harbors and connecting waters of the Great Lakes with a view to determining what additional improvements would be necessary to permit those waterways to accommodate vessels to pass through the Welland Canal when enlarged by the Dominion of Canada, including report as to the character and draft of vessels which might be expected to use the canal when so enlarged, by a provision of the Rivers and Harbors Appropriation Act of 1916, act July 27, 1916, ch. 260, § 2, 39 Stat. 411, omitted from the Code as special and temporary.

CROSS REFERENCES

Discontinuance of preliminary examination reports, see section 545a of this title.

§ 545a. Discontinuance

For preliminary examinations and surveys authorized in previous river and harbor and flood-control Acts, the Secretary of the Army is directed to cause investigations and reports for navigation and allied purposes to be prepared under the supervision of the Chief of Engineers in the form of survey reports, and that preliminary examination reports shall no longer be required to be prepared.

(Pub. L. 85-500, title I, § 105, July 3, 1958, 72 Stat. 300.)

REFERENCES IN TEXT

Previous river and harbor and flood-control Acts, referred to in text, means those acts prior to the River and Harbor Act of 1958 and the Flood Control Act of 1958, titles I and II, respectively, of Pub. L. 85-500.

§ 546. Investigation of stream flow and watersheds; surveys in connection with dams

The surveys of navigable streams shall include such stream-flow measurements and other investigations of the watersheds as may be necessary for preparation of plans of improvement and a proper consideration of all uses of the stream affecting navigation, and whenever necessary similar investigations may be made in connection with all navigable streams under improvement. Whenever permission for the construction of dams in navigable streams is granted, or is under consideration by Congress, such surveys and investigations of the sections of the streams affected may be made as are necessary to secure conformity with rational plans for the improvement of the streams for navigation.

(June 25, 1910, ch. 382, § 3, 36 Stat. 669.)

CODIFICATION

This section is from section 3 of act June 25, 1910, popularly known as the Rivers and Harbors Appropriation Act of 1910. Other provisions of such section were omitted, as superseded by section 545 of this title.

PRIOR PROVISIONS

General provisions regulating the construction of dams were made by the Dam Act of June 21, 1906, ch. 3508, 34 Stat. 386, as amended by act June 23, 1910, ch. 360, 36 Stat. 593, apparently omitted from the Code as superseded.

§ 546a. Information as to configuration of shore line

Every report submitted to Congress in pursuance of any provision of law for preliminary examination and survey looking to the improvement of the entrance at the mouth of any river or at any inlet, in addition to other information which the Congress has directed shall be given, shall contain information concerning the configuration of the shore line and the probable effect thereon that may be expected to result from the improvement having particular reference to erosion and/or accretion for a distance of not less than ten miles on either side of the said entrance.

(Aug. 30, 1935, ch. 831, § 5, 49 Stat. 1048.)

§ 547. Reports as to local benefits of improvement and recommendations as to local cooperation

Every report submitted to Congress in pursuance of any provision of law for a survey, in addition to other information which the Congress has directed shall be given, shall contain a statement of special or local benefit which will accrue to localities affected by such improvement and a statement of general or national benefits, with recommendations as to what local cooperation should be required, if any, on account of such special or local benefit.

(June 5, 1920, ch. 252, § 2, 41 Stat. 1010.)

CODIFICATION

Section is from act June 5, 1920, popularly known as the Rivers and Harbors Appropriation Act of 1921.

§ 547a. Inclusion of regional economic development benefits in economic analysis for purposes of computing economic justification of project

In the case of any authorized navigation project which has been partially constructed, or is to be constructed, which is located in one or more States, and which serves regional needs, the Secretary of the Army, acting through the Chief of Engineers, may include in any economic analysis which is under preparation on October 22, 1976, such regional economic development benefits as he determines to be appropriate for purposes of computing the economic justification of the project.

(Pub. L. 94-587, § 140, Oct. 22, 1976, 90 Stat. 2930.)

§ 548. Omitted

CODIFICATION

Section, act Mar. 3, 1925, ch. 467, § 7, 43 Stat. 1191, required a report on projects adopted prior to March 3, 1925.

§ 549. Report of deterioration in improvements

The Secretary of the Army shall cause the Chief of Engineers of the United States Army, in submitting his annual reports to Congress with regard to works of river and harbor improvement under his charge, to state what deterioration, if any, has taken place by destruction, decay, obstructions, or otherwise, in connection with any of such works, together with an estimate of the cost of rebuilding or repairing such works, or removing such obstructions; and he shall also cause the said Chief of Engineers to recommend, with his reasons therefor, the discontinuance of appropriations for any river and harbor work which he may deem unworthy of further improvement.

(Mar. 3, 1899, ch. 425, § 7, 30 Stat. 1150.)

Codification

Section is from act Mar. 3, 1899, popularly known as the Rivers and Harbors Appropriation Act of 1899. Section 8 of that act, omitted from the Code as temporary, required the Secretary of War to report to Congress a list of all piers, wharves, and other structures or property pertaining to river and harbor works of the Government then occupied by private persons or corporations, together with the terms of such occupancy.

Change of Name

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

§ 550. Report on water terminal and transfer facilities

The Chief of Engineers, United States Army, shall indicate in his annual reports the character of the terminal and transfer facilities existing on every harbor or waterway under maintenance or improvement by the United States, and state whether they are considered adequate for existing commerce. He shall also submit one or more special reports on this subject, as soon as possible after January 18, 1918, including, among other things, the following:

(a) A brief description of such water terminals, including location and the suitability of such terminals to the existing traffic conditions, and whether such terminals are publicly or privately owned, and the terms and conditions under which they may be subjected to public use.

(b) Whether such water terminals are connected by a belt or spur line of railroad with all the railroads serving the same territory or municipality, and whether such connecting railroad is owned by the public and the conditions upon which the same may be used, and also whether there is an interchange of traffic between the water carriers and the railroad or railroads as to such traffic which is carried partly by rail and partly by water to its destination, and also whether improved and adequate highways have been constructed connecting such water terminal with the other lines of highways.

(c) If no water terminals have been constructed by the municipality or other existing public agency there shall be included in his report an expression of opinion in general terms as to the necessity, number, and appropriate location of such a terminal or terminals.

(d) An investigation of the general subject of water terminals, with descriptions and general plans of terminals of appropriate types and construction for the harbors and waterways of the United States suitable for various commercial purposes and adapted to the varying conditions of tides, floods, and other physical characteristics.

(July 18, 1918, ch. 155, § 7, 40 Stat. 911.)

Codification

Section is from act July 18, 1918, popularly known as the Rivers and Harbors Appropriation Act of 1918.

§ 551. Policy of Government as to terminal facilities for new projects

It is declared to be the policy of the Congress that water terminals are essential at all cities and towns located upon harbors or navigable waterways and that at least one public terminal should exist, constructed, owned, and regulated by the municipality or other public agency of the State and open to the use of all on equal terms. The Secretary of the Army, through the Chief of Engineers, shall give full publicity, as far as may be practicable, to this provision.

(Mar. 2, 1919, ch. 95, § 1, 40 Stat. 1286.)

Codification

Section is from act Mar. 2, 1919, popularly known as the Rivers and Harbors Appropriation Act of 1919.

The original text of said section 1 read as follows: "It is hereby declared to be the policy of the Congress that water terminals are essential at all cities and towns located upon harbors or navigable waterways and that at least one public terminal should exist, constructed, owned, and regulated by the municipality, or other public agency of the State and open to the use of all on equal terms, and with the view of carrying out this policy to the fullest possible extent the Secretary of War is hereby vested with the discretion to withhold, unless the public interests would seriously suffer by delay, monies appropriated in this Act for new projects adopted herein, or for the further improvement of existing projects if, in his opinion, no water terminals exist adequate for the traffic and open to all on equal terms, or unless satisfactory assurances are received that local or other interests will provide such adequate terminal or terminals. The Secretary of War, through the Chief of Engineers, shall give full publicity, as far as may be practicable, to this provision."

Change of Name

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

§ 552. Repealed. May 29, 1928, ch. 901, § 1(28), 45 Stat. 988

Section, act Aug. 5, 1886, ch. 929, § 8, 24 Stat. 335, required reports to Congress concerning civilian engineers employed in improving rivers and harbors.

§ 553. Freight statistics

In the collection of statistics relating to traffic, the Corps of Engineers is directed to adopt a uniform system of classification for freight, and upon rivers or inland waterways to collate ton-mileage statistics as far as practicable.

(July 25, 1912, ch. 253, § 1, 37 Stat. 223.)

CODIFICATION

Section is from part of section 1 of act July 25, 1912, popularly known as the Rivers and Harbors Appropriation Act of 1912.

§ 554. Duty of shipowners and officers to furnish information to person in local charge of improvement; penalty

Owners, agents, masters, and clerks of vessels arriving at or departing from localities where works of river and harbor improvement are carried on shall furnish, on application of the persons in local charge of the works, a comprehensive statement of vessels, passengers, freight, and tonnage.

Every person or persons offending against the provisions of this section shall, for each and every offense, be liable to a fine of $100, or imprisonment not exceeding two months, to be enforced in any district court in the United States within whose territorial jurisdiction such offense may have been committed.

(Feb. 21, 1891, ch. 252, §§ 1, 2, 26 Stat. 766.)

CROSS REFERENCES

Felony and misdemeanor defined, see section 1 of Title 18, Crimes and Criminal Procedure.

§ 555. Duty of shipowners and officers to furnish information required by Secretary of the Army

Owners, agents, masters, and clerks of vessels and other craft plying upon the navigable waters of the United States, and all individuals and corporations engaged in transporting their own goods upon the navigable waters of the United States, shall furnish such statements relative to vessels, passengers, freight, and tonnage as may be required by the Secretary of the Army: *Provided*, That this provision shall not apply to those rafting logs except upon a direct request upon the owner to furnish specific information.

Every person or persons offending against the provisions of this section shall, for each and every offense, be liable to a fine of $100, or imprisonment not exceeding two months, to be enforced in any district court in the United States within whose territorial jurisdiction such offense may have been committed.

(Sept. 22, 1922, ch. 427, § 11, 42 Stat. 1043.)

CODIFICATION

Section is from act Sept. 22, 1922, popularly known as the Rivers and Harbors Appropriation Act of 1922.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

§ 556. Printing reports generally

The Secretary of the Army shall cause the manuscript of the annual report of the Chief of Engineers and subordinate engineers, relating to the improvement of rivers and harbors, and the report of the Mississippi River Commission to be placed in the hands of the Public Printer on or before the 15th day of October in each year, and the Public Printer shall cause said reports to be printed with an accurate and comprehensive index thereof, on or before the first Monday in December in each year, for the use of Congress.

All reports on examinations and surveys which may be prepared during the recess of Congress shall, in the discretion of the Secretary of the Army, be printed by the Public Printer as documents of the following session of Congress.

(Aug. 11, 1888, ch. 860, § 8, 25 Stat. 424; June 13, 1902, ch. 1079, 32 Stat. 367; Mar. 4, 1913, ch. 144, § 3, 37 Stat. 825.)

CODIFICATION

The first paragraph of this section is from act Aug. 11, 1888, popularly known as the Rivers and Harbors Appropriation Act.

The Mississippi River Commission was created by act June 28, 1879, set out as sections 641, 642, 644, 646, and 647 of this title.

The words "and Missouri" which appeared in the original text after "Mississippi" were superseded by the abolition of the Missouri River Commission by act June 13, 1902, ch. 1079, § 1, 32 Stat. 367.

The second paragraph of this section is from the last paragraph of section 3 of act Mar. 4, 1913, which superseded a similar provision of act July 25, 1912, ch. 253, 37 Stat. 231. Other parts of said section 3 are set out in section 545 of this title.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

COMPILATION AND PRINTING OF LAWS

Act June 5, 1920, ch. 252, § 6, 41 Stat. 1014, as amended by act Mar. 3, 1925, ch. 467, § 4, 43 Stat. 1190, provided for the compilation and printing of the laws relating to the improvement of rivers and harbors, passed between Mar. 4, 1913, until and including the laws of the second session of the sixty-eighth Congress. It was omitted from the Code as temporary.

CROSS REFERENCES

Time of furnishing manuscript and proofs of annual reports and accompanying documents to Public Print-

er, see section 1111 of Title 44, Public Printing and Documents.

§ 557. Payment of costs of printing

The printing of matter relating to river and harbor works, including all reports, compilations, regulations, and so forth, whose preparation is allowable under Department of the Army regulations, shall be done and paid for out of regular annual appropriations for printing and binding for the Department of the Army.

(July 25, 1912, ch. 253, § 13, 37 Stat. 234; July 1, 1916, ch. 209, § 1, 39 Stat. 330.)

CODIFICATION

Section is from section 1 of act July 1, 1916, repealing section 13 of act July 25, 1912.

Section 1 of that act was a provision, following an appropriation for printing for the War Department, of the Sundry Civil Appropriation Act for 1917.

The repealed section 13 of act July 25, 1912, read as follows: "The printing of matter relating to river and harbor works, including all reports, compilations, regulations, and so forth, whose preparation is allowable under War Department regulations, may, upon recommendation of the Chief of Engineers and approval by the Secretary of War, be paid for from river and harbor appropriations."

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

§ 557a. Publication of pamphlets, maps, brochures, and other material

The Chief of Engineers is authorized to publish information pamphlets, maps, brochures, and other material on river and harbor, flood control, and other civil works activities, including related public park and recreation facilities, under his jurisdiction, as he may deem to be of value to the general public.

(Pub. L. 85-480, § 1, July 2, 1958, 72 Stat. 279.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 557b of this title.

§ 557b. Sale of publications, charts, or other material; deposit of proceeds

The Chief of Engineers is authorized to provide for the sale of any of the material prepared under authority of section 557a of this title; and of publications, charts, or material prepared under his direction pursuant to other legislative authorization or appropriation, and to charge therefor a sum not less than the cost of reproduction. The money received from sales authorized by this section shall be deposited into the Treasury to the credit of miscellaneous receipts, except that in any case in which the cost of reproduction has been paid from the revolving fund established pursuant to the Civil Functions Appropriation Act, 1954, the proceeds shall be deposited to the credit of such fund.

(Pub. L. 85-480, § 2, July 2, 1958, 72 Stat. 279.)

REFERENCES IN TEXT

The Civil Functions Appropriation Act, 1954, referred to in text, is act July 27, 1953, ch. 245, 67 Stat. 197. Provisions of the Act establishing the revolving fund are classified to sections 576 and 701b-10 of this title.

§ 558. Proceeds from sale or transfer of property acquired

When any property which has been heretofore or may be hereafter purchased or acquired for the improvement of rivers and harbors is no longer needed, or is no longer serviceable and is transferred or sold, the proceeds thereof may be credited to the appropriation for the work for which it was acquired.

(June 13, 1902, ch. 1079, § 5, 32 Stat. 373; Feb. 20, 1931, ch. 235, 46 Stat. 1191; Oct. 31, 1951, ch. 654, § 4(4), 65 Stat. 709.)

CODIFICATION

Section originally began with the words "when any land or other" preceding "property". The words, "land or other", were deleted on the basis of act February 20, 1931, which provided, "that hereafter no real estate of the War Department shall be sold or disposed of without authority of Congress, and all existing Acts or parts thereof in conflict with this proviso, other than special Acts for the sale of stated tracts of land, are hereby repealed."

Section is from the first part of section 5 of act June 13, 1902, which was a provision of the Rivers and Harbors Appropriation Act for 1902. The last part of such section 5 is set out as section 631 of this title.

AMENDMENTS

1951—Act Oct. 31, 1951, struck out the provisions authorizing the Secretary of the Army to sell the unserviceable property referred to, and authorizing him to direct the transfer of any property employed in river and harbor works; struck out the provision that the property so transferred should be valued and credited to the project upon which it was theretofore used and charged to the project to which it was transferred; and inserted "and is transferred or sold, the proceeds thereof may be credited to the appropriation for the work for which it was acquired".

§ 558a. Repealed. Oct. 31, 1951, ch. 654, § 1(56), 65 Stat. 703

Section, act Aug. 30, 1935, ch. 831, § 7, 49 Stat. 1048, which related to sale of property no longer needed for improvement of canals, rivers and harbors, is now covered by sections 483, 484 and 485 of Title 40, Public Buildings, Property, and Works.

§ 558b. Exchange of land or property

In any case in which it may be necessary or advisable in the execution of an authorized work of river and harbor improvement to exchange land or other property of the Government for private lands or property required for such project, the Secretary of the Army may, upon the recommendation of the Chief of Engineers, authorize such exchange upon terms and conditions deemed appropriate by him, and any conveyance of Government land or interests therein necessary to effect such exchange may be executed by the Secretary of the Army: *Provided further,* That the authority granted to

the Secretary of the Army shall not extend to or include lands held or acquired by the Tennessee Valley Authority pursuant to the terms of the Tennessee Valley Authority Act [16 U.S.C. 831 et seq.]. This section shall apply to any exchanges heretofore deemed advisable in connection with the construction of the Bonneville Dam in the Columbia River.

(June 20, 1938, ch. 535, § 2, 52 Stat. 804.)

REFERENCES IN TEXT

The Tennessee Valley Authority Act, referred to in text, is act May 18, 1933, ch. 32, 48 Stat. 58, as amended, which is classified generally to chapter 12A (§ 831 et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see Tables volume.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

CROSS REFERENCES

Bonneville Project, see sections 832 to 832*l* of Title 16, Conservation.

Flood control, applicability of this section to works of, see section 558b-1 of this title.

§ 558b-1. Application to authorized works of flood control

Section 558b of this title is made applicable to authorized works of flood control.

(Aug. 11, 1939, ch. 699, § 3, 53 Stat. 1414.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 701b-4 of this title.

§ 558c. Rights of way over United States land

The Secretary of the Army is authorized and empowered, under such terms and conditions as are deemed advisable by him, to grant easements for rights-of-way for public roads and streets on and across lands acquired by the United States for river and harbor and flood control improvements including, whenever necessary, the privilege of occupying so much of said lands as may be necessary for the piers, abutments, and other portions of a bridge structure: *Provided*, That such rights-of-way shall be granted only upon a finding by the Secretary of the Army that the same will be in the public interest and will not substantially injure the interest of the United States in the property affected thereby: *Provided further*, That all or any part of such rights-of-way may be annulled and forfeited by the Secretary of the Army for failure to comply with the terms or conditions of any grant hereunder or for nonuse or for abandonment of rights granted under the authority hereof: *Provided further*, That the authority granted to the Secretary of the Army shall not extend to or include lands held or acquired by the Tennessee Valley Authority pursuant to the terms of the Tennessee Valley Authority Act [16 U.S.C. 831 et seq.].

(June 20, 1938, ch. 535, § 10, 52 Stat. 808.)

REFERENCES IN TEXT

The Tennessee Valley Authority Act, referred to in text, is act May 18, 1933, ch. 32, 48 Stat. 58, as amended, which is classified generally to chapter 12A (§ 831 et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see Tables volume.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

§ 559. Disposition of rentals for Government plants

Amounts paid after August 8, 1917, by private parties or other agencies for rental of plant owned by the Government in connection with the prosecution of river and harbor works shall be deposited in each case to the credit of the appropriation to which the plant belongs.

(Aug. 8, 1917, ch. 49, § 13, 40 Stat. 268.)

CODIFICATION

Section is from act Aug. 8, 1917, popularly known as the Rivers and Harbors Appropriation Act of 1917.

§ 560. Contributions from private parties; return of excess

The Secretary of the Army is authorized to receive from private parties such funds as may be contributed by them to be expended in connection with funds appropriated by the United States for any authorized work of public improvement of rivers and harbors whenever such work and expenditure may be considered by the Chief of Engineers as advantageous to the interests of navigation: *Provided*, That when contributions heretofore or hereafter made by local interests for river and harbor improvements, in accordance with specific requirements or under general authority of Congress, are in excess of the actual cost of the work contemplated and properly chargeable to such contributions, such excess contributions may, with the approval of the Secretary of the Army, be returned to the proper representatives of the contributing interests, unless the provision of law under which the contribution is made requires that the entire contribution be retained by the United States.

(Mar. 4, 1915, ch. 142, § 4, 38 Stat. 1053.)

CODIFICATION

Section is from act Mar. 4, 1915, popularly known as the Rivers and Harbors Appropriation Act of 1915.

PRIOR PROVISIONS

Section superseded act Mar. 4, 1913, ch. 144, § 8, 37 Stat. 827, which read as follows: "The Secretary of War is hereby authorized to receive from private parties such funds as may be contributed by them to be expended in connection with funds appropriated by the United States for any authorized work of public improvement of rivers and harbors, whenever such work and expenditure may be considered by the Chief

of Engineers as advantageous to the interests of navigation."

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

CROSS REFERENCES

Classification as trust funds, appropriation and disbursement of funds contributed for improvement of rivers and harbors, see section 725s of Title 31, Money and Finance.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 561 of this title.

§ 561. Advances by private parties; repayment

Whenever local interests shall offer to advance funds for the prosecution of a work of river and harbor improvement duly adopted and authorized by law the Secretary of the Army may, in his discretion, receive such funds and expend the same in the immediate prosecution of such work. The Secretary of the Army is authorized and directed to repay without interest, from appropriations which may be provided by Congress for river and harbor improvements, the moneys so contributed and expended: *Provided*, That no repayment of funds which may be contributed for the purpose of meeting any conditions of local cooperation imposed by Congress, nor under the authority of section 560 of this title shall be made.

(Mar. 3, 1925, ch. 467, § 11, 43 Stat. 1197.)

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

CROSS REFERENCES

Classification as trust funds, appropriation and disbursement of funds advanced for improvement of rivers and harbors, see section 725s of Title 31, Money and Finance.

§ 561a. Contributions from local interests; reduction to meet lowered cost

When the authorization of a project of river and harbor improvement requires that local interests shall contribute a specific sum of money toward its cost, the Secretary of the Army, upon the recommendation of the Chief of Engineers, may reduce the sum to be contributed to an amount which shall be in the same ratio to the amount of the required contribution as the actual cost of the work to which said contribution is applicable bears to its original estimated cost as set forth in the project document.

(Mar. 3, 1933, ch. 216, 47 Stat. 1545.)

CODIFICATION

A prior provision that the reduction authorized by this section was not to apply to contributions made prior to Mar. 3, 1933, was omitted from the Code as obsolete.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

§ 562. Channel depths and dimensions defined

In the preparation of projects under this and subsequent river and harbor acts, unless otherwise expressed, the channel depths referred to shall be understood to signify the depth at mean low water in tidal waters tributary to the Atlantic and Gulf coasts and at mean lower low water in tidal waters tributary to the Pacific coast and the mean depth for a continuous period of fifteen days of the lowest water in the navigation season of any year in rivers and nontidal channels, and the channel dimensions specified shall be understood to admit of such increase at the entrances, bends, sidings, and turning places as may be necessary to allow of the free movement of boats.

(Mar. 4, 1915, ch. 142, § 5, 38 Stat. 1053.)

CODIFICATION

Section was from act Mar. 4, 1915, popularly known as the Rivers and Harbors Appropriation Act of 1915.

PRIOR PROVISIONS

Section superseded act Mar. 4, 1913, ch. 144, § 9, 37 Stat. 827, which read as follows: "In the preparation of projects under this and subsequent river and harbor acts, unless otherwise expressed, the channel depths referred to shall be understood to signify the depth at mean lower low water in tidal waters, and the mean depth during the month of lowest water in the navigation season in rivers and nontidal channels, and the channel dimensions specified shall be understood to admit of such increase at the entrances, bends, sidings, and turning places as may be necessary to allow of the free movement of boats."

§ 562a. Project depths for national defense purposes; waterways for general commerce

The Chief of Engineers, under the direction of the Secretary of the Army, is hereby authorized to maintain authorized river and harbor projects in excess of authorized project depths where such excess depths have been provided by the United States for defense purposes and whenever the Chief of Engineers determines that such waterways also serve essential needs of general commerce.

(Pub. L. 90-483, title I, § 117, Aug. 13, 1968, 82 Stat. 737.)

§ 563. Omitted

CODIFICATION

Section, act Sept. 22, 1922, ch. 427, § 6, 42 Stat. 1042, made unexpended funds, appropriated prior to Sept. 22, 1922, for river and harbor improvements, available

for preservation and maintenance of existing river and harbor works and prosecution of desirable new projects.

§ 564. Repealed. July 3, 1943, ch. 189, § 5, 57 Stat. 374

Section, acts June 25, 1910, ch. 382, § 4, 36 Stat. 676; June 5, 1920, ch. 252, § 9, 41 Stat. 1015, related to settlement of claims for injury to or loss of private property.

§ 565. River and harbor improvement by private or municipal enterprise

Any person or persons, corporations, municipal or private, who desire to improve any navigable river, or any part thereof, at their or its own expense and risk may do so upon the approval of the plans and specifications of said proposed improvement by the Secretary of the Army and Chief of Engineers of the Army. The plan of said improvement must conform with the general plan of the Government improvements, must not impede navigation, and no toll shall be imposed on account thereof, and said improvement shall at all times be under the control and supervision of the Secretary of the Army and Chief of Engineers.

(June 13, 1902, ch. 1079, § 1, 32 Stat. 371.)

CODIFICATION

Section is from act June 13, 1902, popularly known as the Rivers and Harbors Appropriation Act for 1902. The provisions of this section followed an appropriation for emergencies.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

CONSTRUCTION OF CANAL

The consent of Congress was given to the construction of a ship canal along the Government right of way connecting the waters of Puget Sound with Lake Washington, said canal, when completed, to be turned over to the United States, by act June 11, 1906, ch. 3072, 34 Stat. 231, omitted from the Code as local and temporary.

§ 566. Improvement by or under authority of State of New Jersey

Authority is given to the State of New Jersey, or, through it, to any commission, individual, corporation, or municipality, singly or collectively, designated by the legislature of said State, or by a commission appointed or authorized by said legislature, to improve the channels on the New Jersey seacoast, or any portion of said coast, or the waters adjacent thereto, lying between thirty-eight degrees fifty-six minutes and forty degrees twenty minutes north latitude, by dredging, or by the construction of piers, jetties, or breakwaters, or other river and harbor work of any description or nature adapted to attain the ends now pursued by the United States Government for the advantage of said coast or the relief of commerce: *Provided*, That such operations shall not encroach upon those portions of said coast, or the channels adjacent thereto, for which the United States Government may undertake similar work according to its own plans: *And provided*, That the plans for said work shall be placed on file with the Chief of Engineers of the Department of the Army for thirty days, during which time he is authorized to disapprove said plans and forbid such work if, in his judgment, the improvements when completed will interfere with navigation or with any works of the United States Government commenced or proposed to be made: *Provided further*, That no tolls or other charges upon commerce shall be imposed by those making such improvements: *And provided further*, That this section shall not be construed as affecting in any way the jurisdiction and control of the Federal Government over any waters that may be improved in pursuance of the provisions thereof, nor as exempting such waters from the operation of the laws heretofore or hereafter enacted by Congress for the preservation and protection of navigable waters. The right to alter, amend, or repeal this section is expressly reserved.

(June 30, 1906, ch. 3923, §§ 1, 2, 34 Stat. 800.)

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

§ 567. Navigation and flood control improvements by Minnesota, North Dakota, and South Dakota

Congress consents that the States of Minnesota, North Dakota, and South Dakota, or any two of them, may enter into any agreement or agreements with each other to aid in improving navigation and to prevent and control floods on boundary waters of said States and the waters tributary thereto. And said States, or any two of them, may agree with each other upon any project or projects for the purpose of making such improvements, and upon the amount of money to be contributed by each to carry out such projects. The Secretary of the Army is authorized and directed to make a survey of any project proposed, as aforesaid, by said States, or any two of them, to determine the feasibility and practicability thereof and the expenses of carrying the same into effect and what share of such expenses should be borne by the respective States, local interests, or by the National Government. If the Secretary of the Army approves any such projects, he may authorize the States to make such improvements at their own expense, but under his supervision.

(Aug. 8, 1917, ch. 49, § 5, 40 Stat. 266.)

CODIFICATION

Section is from a part of section 5 of act Aug. 8, 1917, which act was popularly known as the Rivers and Harbors Appropriation Act for 1917. The omitted part of such section read as follows: "That the sum of $25,000, or so much thereof as may be necessary, is hereby appropriated, out of any funds in the Treasury

of the United States not otherwise appropriated, for the purpose of enabling the Secretary of War to make the surveys and estimates herein contemplated."

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

§ 567a. Flood and pollution control compacts between certain States

The consent of the Congress of the United States is given to the States of Maine, New York, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, Pennsylvania, West Virginia, Kentucky, Indiana, Illinois, Tennessee, and Ohio, or any two or more of them, to negotiate and enter into agreements or compacts for conserving and regulating the flow, lessening flood damage, removing sources of pollution of the waters thereof, or making other public improvements on any rivers or streams whose drainage basins lie within any two or more of the said States.

No such compact or agreement shall be binding or obligatory upon any State a party thereto unless and until it has been approved by the legislatures of each of the States whose assent is contemplated by the terms of the compact or agreement and by the Congress.

(June 8, 1936, ch. 542, §§ 1, 2, 49 Stat. 1490.)

APPROVAL OF COMPACT BY CONGRESS

Act July 11, 1940, ch. 581, 54 Stat. 752, provided in part that:

"The consent and approval of Congress is hereby given to an interstate compact relating to the control and reduction of the pollution of the streams of the Ohio River drainage basin negotiated and entered into or to be entered into under authority of Public Resolution Numbered 104, Seventy-fourth Congress, approved June 8, 1936, [this section] and now ratified by the States of New York, Illinois, Kentucky, and Indiana, and by the State of Ohio (whose ratification is to go into effect at the time at which the States of New York, Pennsylvania, and West Virginia enter into said compact as parties and signatory States), also by the State of West Virginia (whose ratification is to go into effect at the time at which the States of New York, Ohio, Virginia, and Pennsylvania enter into said compact as parties and signatory States) * * *."

"SEC. 2. Without further submission of said compact, the consent of Congress is hereby given to the State of Virginia or any other State with waters in the Ohio River drainage basin, entering into said compact as a signatory State and party in addition to the States therein named or any of them.

"SEC. 3. The commissioners to represent the United States, as provided in article IV of said compact, shall be appointed by the President.

"SEC. 4. Nothing contained in this Act or in the compact herein approved shall be construed as impairing or affecting the sovereignty of the United States or any of its rights or jurisdiction in and over the area or waters which are the subject of such compact.

"SEC. 5. The right to alter, amend, or repeal the provisions of section 1 is hereby expressly reserved."

§ 567b. Pollution of Potomac drainage basin; control by State compacts

The consent of Congress is given to the States of Maryland and West Virginia and the Commonwealths of Virginia and Pennsylvania and the District of Columbia to enter into the compact to create a Potomac Valley Conservancy District and to establish an Interstate Commission on the Potomac River Basin: *Provided*, That nothing contained in such compact shall be construed as impairing or in any manner affecting any right or jurisdiction of the United States in and over the region which forms the subject of this compact.

(July 11, 1940, ch. 579, 54 Stat. 748.)

CODIFICATION

Section is also set out in section 7-1501 of the District of Columbia Code.

§ 567b-1. Amended compact

The consent of Congress is hereby given to the States of Maryland and West Virginia and the Commonwealths of Virginia and Pennsylvania and the District of Columbia to adopt the aforementioned amendments and enter into the amended compact hereinbefore recited and every part and article thereof: *Provided*, That nothing contained in such amended compact shall be construed as impairing or in any manner affecting any right or jurisdiction of the United States in and over the region which forms the subject of this compact: *And provided further*, That the consent herein given does not extend to section (F)(2) of article II of the amended compact.

(Sept. 25, 1970, Pub. L. 91-407, § 1, 84 Stat. 860.)

REFERENCES IN TEXT

The amended compact, referred to in text, is set out in 84 Stat. 856 to 860.

CODIFICATION

Section is also set out in section 7-1502 of the District of Columbia Code.

§ 568. Limitation on power of committee of Congress to consider projects

No project shall be considered by any committee of Congress with a view to its adoption, except with a view to a survey, if five years have elapsed since a report upon a survey of such project has been submitted to Congress pursuant to law.

(Sept. 22, 1922, ch. 427, § 9, 42 Stat. 1043.)

CODIFICATION

Section is from act Sept. 22, 1922, popularly known as the Rivers and Harbors Appropriation Act of 1918.

§ 569. Personal equipment for employees; use of funds for purpose

Funds heretofore or hereafter appropriated for rivers and harbors to be expended under the supervision of the Secretary of the Army shall be available for expenditure in the purchase of such personal equipment for employees as in the opinion of the Chief of Engineers are essential for the efficient prosecution of the works.

(Jan. 21, 1927, ch. 47, § 5(b), 44 Stat. 1021.)

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

TRANSFER OF FUNCTIONS

For transfer of certain functions insofar as they pertain to the Air Force, and to the extent that they were not previously transferred to the Secretary of the Air Force and Department of the Air Force from the Secretary of the Army and Department of the Army, see Secretary of Defense Transfer Order No. 40, July 22, 1949.

§ 569a. Temporary employment of experts or consultants; compensation

The Chief of Engineers is authorized to procure the temporary or intermittent services of experts or consultants or organizations thereof in connection with civil functions of the Corps of Engineers without regard to chapter 51 and subchapter III of chapter 53 of title 5: *Provided*, That individuals so engaged may be paid at rates not to exceed the daily equivalent of the rate for GS-18 for each day of their services.

(July 3, 1930, ch. 847, § 6, 46 Stat. 948; May 17, 1950, ch. 188, title I, § 105, 64 Stat. 168; Dec. 31, 1970, Pub. L. 91-611, title I, § 104, 84 Stat. 1819.)

CODIFICATION

"Chapter 51 and subchapter III of chapter 53 of title 5" was substituted for "the Classification Act of 1949" on authority of section 7(b) of Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 631, section 1 of which enacted Title 5, Government Organization and Employees.

AMENDMENTS

1970—Pub. L. 91-611 substituted provision that compensation "may be paid at rates not to exceed the daily equivalent of the rate for GS-18 for each day of their services" for "shall not be paid in excess of $100 per day for their services".

1950—Act May 17, 1950, provided for employment of experts and consultants and omitted provisions relating to stenographic assistance.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 5 section 3323.

§ 570. Default in contract; disposition of amounts collected

Any amounts collected from defaulting contractors or their sureties under contracts entered into in connection with river and harbor or flood-control work prosecuted by the Engineer Department, whether collected in cash or by deduction from amounts otherwise due such contractors, hereafter shall be credited in each case to the appropriation under which the contract was made.

(Aug. 30, 1935, ch. 831, § 8, 49 Stat. 1048.)

§ 571. Crediting reimbursements for lost, stolen, or damaged property

Any amounts collected from any person, persons, or corporations as a reimbursement for lost, stolen, or damaged property, purchased in connection with river and harbor or flood-control work prosecuted under the direction of the Secretary of the Army and the supervision of the Chief of Engineers, whether collected in cash or by deduction from amounts otherwise due such person, persons, or corporations, hereafter shall be credited in each case to the appropriation that bore the cost of purchase, repair, or replacement of the lost, stolen, or damaged property.

(June 20, 1938, ch. 535, § 4, 52 Stat. 805.)

CODIFICATION

Section is also set out as section 701k of this title.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

§ 572. Collection and removal of drift in Baltimore Harbor

On and after July 30, 1948, direct allotments from appropriations for the maintenance and improvement of existing river and harbor works, or from other available appropriations, may be made by the Secretary of the Army for the collection and removal of drift in Baltimore Harbor and its tributary waters, and this work shall be carried out as a separate and distinct project.

(June 30, 1948, ch. 771, title I, § 102, 62 Stat. 1173.)

§ 573. Repealed. Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 656

Section, act May 17, 1950, ch. 188, title I, § 111, 64 Stat. 170, provided that section 947 of Title 5 should not be construed to prevent employment of additional personnel.

§ 574. Omitted

CODIFICATION

Section, act Sept. 6, 1950, c. 896, ch. IX, § 101, 64 Stat. 726, which related to availability of appropriation for payments to school districts, was from the Civil Functions Appropriation Act, 1951, and was not repeated in subsequent appropriation acts.

§ 575. Availability of appropriations for expenses incident to operation of power boats or vessels; expenses defined; certification of expenditures

On and after July 31, 1947, no appropriation under the Corps of Engineers shall be available for any expenses incident to operating any power-driven boat or vessel on other than Government business, and that Government business shall be construed to include transportation, lodging, and subsistence on inspection trips of Federal and State officials, having a

public interest in authorized or proposed improvements for river and harbor and flood control, and any expenses incurred therefor shall be chargeable to river and harbor and flood control appropriations heretofore or hereafter made under rules and regulations to be prescribed by the Chief of Engineers: *Provided*, That such expenditures shall be certified by the Division Engineer as necessary and proper expenditures.

(July 31, 1947, ch. 411, § 1, 61 Stat. 688.)

CODIFICATION

Section is also set out as section 701b-9 of this title. Section was formerly classified to sections 190a and 199 of Title 10 prior to the general revision and enactment of Title 10, Armed Forces, by act Aug. 10, 1956, ch. 1041, § 1, 70A Stat. 1.

§ 576. Revolving fund; establishment; availability reimbursement; transfer of funds; limitation

There is established a revolving fund, to be available without fiscal year limitation, for expenses necessary for the maintenance and operation of the plant and equipment of the Corps of Engineers used in civil works functions, including acquisition of plant and equipment, maintenance, repair, and purchase, operation, and maintenance of not to exceed four aircraft at any one time, temporary financing of services finally chargeable to appropriations for civil works functions, and the furnishing of facilities and services for military functions of the Department of the Army and other Government agencies and private persons, as authorized by law. In addition, the Secretary of the Army is authorized to provide capital for the fund by capitalizing the present inventories, plant and equipment of the civil works functions of the Corps of Engineers. The fund shall be credited with reimbursements or advances for the cost of equipment, facilities, and services furnished, at rates which shall include charges for overhead and related expenses, depreciation of plant and equipment, and accrued leave: *Provided*, That on July 1, 1953, (1) the fund shall assume the assets, liabilities, and obligations of the Plant accounts, as carried on the records of the Corps of Engineers as of June 30, 1953, under the appropriations for "Maintenance and improvement of existing river and harbor works", "Flood control, general", and "Flood control, Mississippi River and tributaries", and (2) there shall be transferred from said appropriations to the fund amounts equivalent to the unexpended cash balances of the Plant accounts on June 30, 1953: *Provided further*, That the total capital of said fund shall not exceed $140,000,000.

(July 27, 1953, ch. 245, § 101, 67 Stat. 199.)

CODIFICATION

Section is also set out as section 701b-10 of this title. Section was formerly classified to section 190b of Title 10 prior to the general revision and enactment of Title 10, Armed Forces, by act Aug. 10, 1956, ch. 1041, § 1, 70A Stat. 1.

CROSS REFERENCES

Proceeds of sales of publications, charts, or materials to be credited to revolving fund, see section 557b of this title.

§ 577. Small river and harbor improvement projects

(a) Allotment from appropriations for construction

The Secretary of the Army is authorized to allot from any appropriations hereafter made for rivers and harbors not to exceed $25,000,000 for any one fiscal year for the construction of small river and harbor improvement projects not specifically authorized by Congress which will result in substantial benefits to navigation and which can be operated consistently with appropriate and economic use of the waters of the Nation for other purposes, when in the opinion of the Chief of Engineers such work is advisable, if benefits are in excess of the cost.

(b) Limitation on allotment

Not more than $2,000,000 shall be allotted for the construction of a project under this section at any single locality and the amount allotted shall be sufficient to complete the Federal participation in the project under this section.

(c) Lands, easements, and rights of way; indemnification; assurances of local cooperation

Local interests shall provide without cost to the United States all necessary lands, easements and rights-of-way for all projects to be constructed under the authority of this section. In addition, local interests may be required to hold and save the United States free from damages that may result from the construction and maintenance of the project and may be required to provide such additional local cooperation as the Chief of Engineers deems appropriate. A State, county, municipality or other responsible local entity shall give assurance satisfactory to the Chief of Engineers that such conditions of cooperation as are required will be accomplished.

(d) Sharing of costs by non-Federal interests

Non-Federal interests may be required to share in the cost of the project to the extent that the Chief of Engineers deems that such cost should not be borne by the Federal Government in view of the recreational or otherwise special or local nature of the project benefits.

(e) Completeness of project

Each project for which money is allotted under this section shall be complete in itself and not commit the United States to any additional improvement to insure its successful operation, other than routine maintenance, and except as may result from the normal procedure applying to projects authorized after submission of survey reports, and projects constructed under the authority of this section shall be considered as authorized projects.

(f) Low water access navigation channels from existing channel of Mississippi River

This section shall apply to, but not be limited to, the provision of low water access navigation channels from the existing channel of the Mississippi River to harbor areas heretofore or now established and located along the Mississippi River.

(Pub. L. 86-645, title I, § 107, July 14, 1960, 74 Stat. 486; Pub. L. 89-298, title III, § 310(a) Oct. 27, 1965, 79 Stat. 1095; Pub. L. 91-611, title I, § 112(a), Dec. 31, 1970, 84 Stat. 1821; Pub. L. 94-587, § 133(a), Oct. 22, 1976, 90 Stat. 2928.)

AMENDMENTS

1976—Subsec. (b). Pub. L. 94-587 increased the limitation on allotment for project at any single facility from $1,000,000 to $2,000,000.

1970—Subsec. (a). Pub. L. 91-611 increased the annual appropriation from $10,000,000 to $25,000,000.

Subsec. (b). Pub. L. 91-611 increased the limitation on allotment for project at any single locality from $500,000 to $1,000,000.

1965—Subsec. (a). Pub. L. 89-298, § 310(a)(1), increased the annual appropriation from $2,000,000 to $10,000,000.

Subsec. (b). Pub. L. 89-298, § 310(a)(2), increased the limitation on allotment for project at any single locality from $200,000 to $500,000.

PROJECTS UNDER CONTRACT FOR CONSTRUCTION ON OCTOBER 22, 1976

Section 133(c) of Pub. L. 94-587 provided that: "The amendments made by this section [amending subsec. (b) of this section and section 701s of this title] shall not apply to any project under contract for construction on the date of enactment of the Water Resources Development Act of 1976 [Oct. 22, 1976]."

PROJECTS UNDER CONTRACT FOR CONSTRUCTION ON DECEMBER 31, 1970

Amendment of subsecs. (a) and (b) by Pub. L. 91-611 inapplicable to any project under contract for construction on Dec. 31, 1970, see section 112(c) of Pub. L. 91-611, set out as a note under section 426g of this title.

§ 577a. Small-boat navigation projects; charter fishing craft

The Chief of Engineers, for the purpose of determining Federal and non-Federal cost sharing, relating to proposed construction of small-boat navigation projects, shall consider charter fishing craft as commercial vessels.

(Pub. L. 91-611, title I, § 119, Dec. 31, 1970, 84 Stat. 1822.)

§ 578. Disposal of surplus property for development of public port or industrial facilities

(a) Conveyance by Secretary of the Army

Whenever the Secretary of the Army, upon the recommendation of the Chief of Engineers, determines that notwithstanding the provisions of the Federal Property and Administrative Services Act of 1949, as amended [40 U.S.C. 471 et seq.], with respect to disposal of surplus real property, (1) the development of public port or industrial facilities on land which is part of a water resource development project under his jurisdiction will be in the public interest; (2) that such development will not interfere with the operation and maintenance of the project; and (3) that disposition of the property for these purposes under this section will serve the objectives of the project within which the land is located, he may convey the land by quitclaim deed to a State, political subdivision thereof, port district, port authority, or other body created by the State or through a compact between two or more States for the purpose of developing or encouraging the development of such facilities. In any case, where two or more political subdivisions thereof, or bodies created by, a State or group of States, seek to obtain the same land, the Secretary of the Army shall give preference to that political subdivision or body whose intended use of land will, in his opinion, best promote the purposes for which the project involved was authorized.

(b) Purchase price; conditions, reservations or restrictions

Any conveyance authorized by this section shall be made at the fair market value of the land, as determined by the Secretary of the Army, upon condition that the property shall be used for one of the purposes stated in the subsection (a) of this section only, and subject to such other conditions, reservations or restrictions as the Secretary may determine to be necessary for the development, maintenance, or operation of the project or otherwise in the public interest.

(c) Notice of proposed conveyance

Prior to the conveyance of any land under the provisions of this section, the Secretary of the Army shall, in the manner he deems reasonable, give public notice of the proposed conveyance and afford an opportunity to interested eligible bodies in the general vicinity of the land to apply for its purchase.

(d) Delegation of authority

The Secretary of the Army may delegate any authority conferred upon him by this section to any officer or employee of the Department of the Army. Any such officer or employee shall exercise the authority so delegated under rules and regulations approved by the Secretary.

(e) Deposit of proceeds

The proceeds from any conveyance made under the provisions of this section shall be covered into the Treasury as miscellaneous receipts.

(Pub. L. 86-645, title I, § 108, July 14, 1960, 74 Stat. 486.)

REFERENCES IN TEXT

The Federal Property and Administrative Services Act of 1949, as amended, referred to in subsec. (a), is act June 30, 1949, ch. 288, 63 Stat. 377, as amended. Provisions of that act relating to disposal of government property are classified to chapter 10 (§ 471 et seq.) of Title 40, Public Buildings, Property, and Works. For complete classification of this Act to the Code, see Short Title note under section 471 of Title 40 and Tables volume.

§ 579. Projects authorized for eight or more years without Congressional appropriations; deauthorization list

(a) Project review and submittal to Congress; reasons for recommendations; views of interested Federal agencies and Governors; notification of members in Congress from State and district of project site

As soon as practicable after March 7, 1974, and at least once each year thereafter, the Secretary of the Army, acting through the Chief of Engineers, shall review and submit to Congress a list of those authorized projects for works of improvement of rivers and harbors and other waterways for navigation, beach erosion, flood control, and other purposes which have been authorized for a period of at least eight years without any Congressional appropriations within the last eight years and which he determines, after appropriate review, should no longer be authorized. Each project so listed shall be accompanied by the recommendation of the Chief of Engineers together with his rea-

sons for such recommendation. Prior to the submission of such list to the Congress, the Secretary of the Army, acting through the Chief of Engineers, shall obtain the views of interested Federal departments, agencies, and instrumentalities, and of the Governor of each State wherein such project would be located, which views shall be furnished within sixty days after being requested by the Secretary and which shall accompany the list submitted to Congress. Prior to the submission of such list to Congress the Secretary of the Army, acting through the Chief of Engineers, shall notify each Senator in whose State, and each Member of the House of Representatives in whose district, a project (including any part thereof) on such list would be located.

(b) Delivery of list to Houses in session; resolution for continuation of authorized projects; provisions inapplicable to projects submitted to Congress within prescribed period preceding adjournment sine die

Such list shall be delivered to both Houses on the same day and to each House while it is in session. A project on such list shall not be authorized at the end of the first period of ninety calendar days of continuous session of Congress after the date such list is delivered to it unless between the date of delivery and the end of such ninety-day period, either the Committee on Public Works of the House of Representatives or the Committee on Environment and Public Works of the Senate adopts a resolution stating that such project shall continue to be an authorized project. For the purposes of this section continuity of session is broken only by an adjournment of Congress sine die, and the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the ninety-day period. The provisions of this section shall not apply to any project contained in a list of projects submitted to the Congress within ninety days preceding the date of adjournment sine die of any session of Congress.

(c) Withdrawals from deauthorization list

Nothing in this section shall be construed so as to preclude the Secretary from withdrawing any project or projects from such list at any time prior to the final day of the period provided for in subsection (b) of this section.

(d) Provisions inapplicable to authorized projects continued by resolution

This section shall not be applicable to any project which has been included in a resolution adopted pursuant to subsection (b) of this section.

(e) Project review, on request by resolution, of authorized projects for inclusion in deauthorization list; submittal of report and reasons for exclusion recommendations to Congressional Committees

The Secretary of the Army, acting through the Chief of Engineers, shall, on request by resolution of the Committee on Environment and Public Works of the Senate or the Committee on Public Works of the House of Representatives, review authorized projects for inclusion in the list of projects provided for in subsection (a) of this section. If any project so reviewed is not included in any of the first three lists submitted to the Congress after the date of the resolution directing the review of the project, a report on the review together with the reasons for not recommending deauthorization, shall be submitted to the Committees on Public Works of the Senate and House of Representatives not later than the date of the third list submitted to Congress after the date of such resolution.

(Pub. L. 93-251, title I, § 12, Mar. 7, 1974, 88 Stat. 16; Pub. L. 94-587, § 157(a), Oct. 22, 1976, 90 Stat. 2933; S. Res. 4, Feb. 4, 1977.)

AMENDMENTS

1976—Subsec. (b). Pub. L. 94-587 substituted "ninety" for "one hundred and eighty" in two instances and "ninety-day" for "one hundred and eighty-day" also in two instances.

CHANGE OF NAME

The Committee on Public Works of the House of Representatives was changed to the Committee on Public Works and Transportation of the House of Representatives, effective Jan. 3, 1975, by House Resolution 988, 93d Congress.

The Committee on Public Works of the Senate was abolished and replaced by the Committee on Environment and Public Works of the Senate, effective Feb. 11, 1977. See Rule XXV of the Standing Rules of the Senate, as amended by Senate Resolution 4 (popularly cited as the "Committee System Reorganization Amendments of 1977"), approved Feb. 4, 1977.

EFFECTIVE DATE OF 1976 AMENDMENT

Section 157(b) of Pub. L. 94-587 provided that: "The amendment made by subsection (a) of this section [amending subsec. (b) of this section] shall take effect on January 1, 1977."

SUBCHAPTER II—PAY AND ALLOWANCES; TRAVELING EXPENSES AND SUBSISTENCE

§ 581. Hiring special means of transportation

In their execution and inspection of river and harbor improvement work, at points beyond easy reach of ordinary regular transportation lines, Engineer officers are authorized to hire and use such transportation as they may consider desirable and advantageous to the progress of work.

(July 25, 1912, ch. 253, § 9, 37 Stat. 233.)

CODIFICATION

Section is from act July 25, 1912, popularly known as the Rivers and Harbors Appropriation Act of 1912.

§ 582. Repealed. Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 644

Section, act July 18, 1918, ch. 155, § 9, 40 Stat. 912, related to subsistence allowance to persons engaged in field work.

§ 583. Payment of allowances, etc., incident to change of station of Engineer officers from appropriation for improvements

When in the opinion of the Secretary of the Army the changes of a station of an officer of the Corps of Engineers is primarily in the interest of river and harbor improvement, the mileage and other allowances to which he may be entitled incident to such change of station may be paid from appropriations for such improvements.

(Mar. 3, 1925, ch. 467, § 5, 43 Stat. 1191.)

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

§ 583a. Payment of pay and allowances of officers of Corps of Engineers from appropriation for improvements

Regular officers of the Corps of Engineers of the Army, and reserve officers of the Army who are assigned to the Corps of Engineers, who are employed primarily on duty connected with non-military public works prosecuted under the direction of the Chief of Engineers, including river and harbor improvements, flood control, and other such works, shall, while so employed, be paid their pay and allowances from the appropriation for the works upon which they are employed.

(Aug. 10, 1956, ch. 1041, § 36, 70A Stat. 634.)

CODIFICATION

Section was formerly classified to section 181a of Title 10 prior to the general revision and enactment of Title 10, Armed Forces, by act Aug. 10, 1956, ch. 1041, § 1, 70A Stat. 1.

§§ 584, 584a. Repealed. Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 647, 648

Section 584, act Jan. 21, 1927, ch. 47, § 5(d), 44 Stat. 1021, related to expenses incident to transportation of household effects of civilian employees.

Section 584a, act July 3, 1930, ch. 847, § 6, 46 Stat. 948, related to travel expenses of civilian employees on river and harbor works.

SUBCHAPTER III—ACQUISITION OF LAND AND MATERIALS

§ 591. Condemnation, purchase, and donation of land and materials

The Secretary of the Army may cause proceedings to be instituted, in the name of the United States, in any court having jurisdiction of such proceedings, for the acquirement by condemnation of any land, right-of-way, or material needed to enable him to maintain, operate, or prosecute works for the improvement of rivers and harbors for which provision has been made by law; such proceedings to be prosecuted in accordance with the laws relating to suits for the condemnation of property of the States wherein the proceedings may be instituted: *Provided, however,* That when the owner of such land, right-of-way, or material shall fix a price for the same, which in the opinion of the Secretary of the Army, shall be reasonable, he may purchase the same at such price without further delay: And provided further, That the Secretary of the Army is authorized to accept donations of lands or materials required for the maintenance or prosecution of such works.

(Apr. 24, 1888, ch. 194, 25 Stat. 94.)

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

CROSS REFERENCES

Condemnation of realty for sites for public buildings, see section 257 of Title 40, Public Buildings, Property, and Works.

FEDERAL RULES OF CIVIL PROCEDURE

Procedure in condemnation proceedings, see rule 71A, Title 28, Appendix, Judiciary and Judicial Procedure.

§ 592. Condemnation of land in aid of person, company, corporation, municipal or private

Whenever any person, company, or corporation, municipal or private, shall undertake to secure any land or easement therein needed in connection with a work of river and harbor improvement duly authorized by Congress, for the purpose of conveying the same to the United States free of cost, or for the purpose of constructing, maintaining, and operating locks, dry docks, or other works to be conveyed to the United States free of cost, and of constructing, maintaining and operating dams for use in connection therewith, and shall be unable for any reason to obtain the same by purchase and acquire a valid title thereto, the Secretary of the Army may, in his discretion, cause proceedings to be instituted in the name of the United States for the acquirement by condemnation of said land or easement, and it shall be the duty of the Attorney General of the United States to institute and conduct such proceedings upon the request of the Secretary of the Army: *Provided,* That all expenses of said proceedings and any award that may be made thereunder shall be paid by the said person, company, or corporation, to secure which payment the Secretary of the Army may require the said person, company, or corporation to execute a proper bond in such amount as he may deem necessary before said proceedings are commenced.

(May 16, 1906, ch. 2465, 34 Stat. 196; June 29, 1906, ch. 3628, 34 Stat. 632.)

CODIFICATION

Act May 16, 1906, as originally enacted, provided that: "Whenever any person, company, or corporation, municipal or private, shall undertake to secure, for the purpose of conveying the same to the United States free of cost, any land or easement therein, needed in connection with a work of river and harbor improvement duly authorized by Congress, and shall be unable for any reason to obtain a valid title thereto, the Secretary of War may, in his discretion, cause proceedings to be instituted in the name of the United States for the acquirement by condemnation of said land or easement, and it shall be the duty of the Attorney General of the United States to institute and conduct such proceedings upon the request of the Secretary of War: Provided, That all the expenses of said proceedings and any award that may be made thereunder shall be paid by the said person, company, or corporation, to

secure which payment the Secretary of War may require the said person, company, or corporation to execute a proper bond in such amount as he may deem necessary before said proceedings are commenced."

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

§ 593. Condemnation of land in aid of State or State agency

Whenever any State, or any reclamation, flood control or drainage district, or other public agency created by any State, shall undertake to secure any land or easement therein, needed in connection with a work of river and harbor improvement duly authorized by Congress, for the purpose of conveying the same to the United States free of cost, and shall be unable for any reason to obtain the same by purchase and acquire a valid title thereto, the Secretary of the Army may, in his discretion, cause proceedings to be instituted in the name of the United States for the acquirement by condemnation of said land or easement, and it shall be the duty of the Attorney General of the United States to institute and conduct such proceedings upon the request of the Secretary of the Army: *Provided*, That all expenses of said proceedings and any award that may be made thereunder shall be paid by such State, or reclamation, flood control or drainage district, or other public agency as aforesaid, to secure which payment the Secretary of the Army may require such State, or reclamation, flood control or drainage district, or other public agency as aforesaid, to execute a proper bond in such amount as he may deem necessary before said proceedings are commenced.

(Aug. 8, 1917, ch. 49, § 9, 40 Stat. 267.)

CODIFICATION

Section is from act Aug. 8, 1917, popularly known as the Rivers and Harbors Appropriation Act of 1917.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

CROSS REFERENCES

Condemnation for flood control, section as applicable to, see section 701c-2 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 701c-2 of this title.

§ 594. When immediate possession of land may be taken

Whenever the Secretary of the Army, in pursuance of authority conferred on him by law, causes proceedings to be instituted in the name of the United States for the acquirement by condemnation of any lands, easements, or rights of way needed for a work of river and harbor improvements duly authorized by Congress, the United States, upon the filing of the petition in any such proceedings, shall have the right to take immediate possession of said lands, easements, or rights-of-way, to the extent of the interest to be acquired, and proceed with such public works thereon as have been authorized by Congress: *Provided*, That certain and adequate provision shall have been made for the payment of just compensation to the party or parties entitled thereto, either by previous appropriation by the United States or by the deposit of moneys or other form of security in such amount and form as shall be approved by the court in which such proceedings shall be instituted. The respondent or respondents may move at any time in the court to increase or change the amounts or securities, and the court shall make such order as shall be just in the premises and as shall adequately protect the respondents. In every case the proceedings in condemnation shall be diligently prosecuted on the part of the United States in order that such compensation may be promptly ascertained and paid.

(July 18, 1918, ch. 155, § 5, 40 Stat. 911.)

CODIFICATION

This section is from act July 18, 1918, popularly known as the Rivers and Harbors Appropriation Act of 1918.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

CROSS REFERENCES

Condemnation for flood control, section as applicable to, see sections 701c-2 and 702d of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 701c-2, 702d of this title.

§ 595. Consideration of benefits in assessing compensation

In all cases where private property shall be taken by the United States for the public use in connection with any improvement of rivers, harbors, canals, or waterways of the United States, and in all condemnation proceedings by the United States to acquire lands or easements for such improvements, where a part only of any such parcel, lot, or tract of land shall be taken, the jury or other tribunal awarding the just compensation or assessing the damages to the owner, whether for the value of the part

taken or for any injury to the part not taken, shall take into consideration by way of reducing the amount of compensation or damages any special and direct benefits to the remainder arising from the improvement, and shall render their award or verdict accordingly.

(July 18, 1918, ch. 155, § 6, 40 Stat. 911.)

CODIFICATION

This section is from act July 18, 1918, popularly known as the Rivers and Harbors Appropriation Act of 1918.

CROSS REFERENCES

Condemnation for flood control, section as applicable to, see sections 701c-2 and 702d of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 701c-2, 702d of this title.

§ 595a. Compensation for taking or condemnation of property for public improvements; fair market value; partial taking; effective date

In all cases where real property shall be taken by the United States for the public use in connection with any improvement of rivers, harbors, canals, or waterways of the United States, and in all condemnation proceedings by the United States to acquire lands or easements for such improvements, the compensation to be paid for real property taken by the United States above the normal high water mark of navigable waters of the United States shall be the fair market value of such real property based upon all uses to which such real property may reasonably be put, including its highest and best use, any of which uses may be dependent upon access to or utilization of such navigable waters. In cases of partial takings of real property, no depreciation in the value of any remaining real property shall be recognized and no compensation shall be paid for any damages to such remaining real property which result from loss of or reduction of access from such remaining real property to such navigable waters because of the taking of real property or the purposes for which such real property is taken. The compensation defined herein shall apply to all acquisitions of real property after December 31, 1970, and to the determination of just compensation in any condemnation suit pending on December 31, 1970.

(Pub. L. 91-611, title I, § 111, Dec. 31, 1970, 84 Stat. 1821.)

§ 596. Repealed. Pub. L. 91-646, title III, § 306, Jan. 2, 1971, 84 Stat. 1907

Section, Pub. L. 86-645, title III, § 301, July 14, 1960, 74 Stat. 502, declared the policy of Congress with respect to payment of just and reasonable consideration to owners and tenants whose property is acquired for public works projects and payment of a purchase price in negotiation for such property which will consider such congressional policy. See provisions of Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, classified to chapter 61 (§ 4601 et seq.) of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF REPEAL

Repeal of section not applicable to any State so long as sections 4630 and 4655 of title 42 are not applicable in such State; but such sections completely applicable to all States after July 1, 1972, but until such date applicable to a State to extent the State is able under its laws to comply with such sections, see section 221 of Pub. L. 91-646, set out as an Effective Date note under section 4601 of Title 42, The Public Health and Welfare.

SAVINGS PROVISIONS

Any rights or liabilities existing under provisions repealed by section 306 of Pub. L. 91-646 as not affected by such repeal, see section 306 of Pub. L. 91-646, set out in part as a Savings Provisions note under section 4651 of Title 42, The Public Health and Welfare.

§ 597. Acquisition of lands for water resource development projects; information as to probable timing for acquisition; public meetings; regulations

Within six months after the date that Congress authorizes construction of a water resource development project under the jurisdiction of the Secretary of the Army, the Corps of Engineers shall make reasonable effort to advise owners and occupants in and adjacent to the project area as to the probable timing for the acquisition of lands for the project and for incidental rights-of-way, relocations, and any other requirements affecting owners and occupants. Within a reasonable time after initial appropriations are made for land acquisition or construction, including relocations, the Corps of Engineers shall conduct public meetings at locations convenient to owners and tenants to be displaced by the project in order to advise them of the proposed plans for acquisition and to afford them an opportunity to comment. To carry out the provisions of this section, the Chief of Engineers shall issue regulations to provide, among other things, dissemination of the following information to those affected: (1) factors considered in making the appraisals; (2) desire to purchase property without going to court; (3) legal right to submit to condemnation proceedings; (4) payments for moving expenses or other losses not covered by appraised market value; (5) occupancy during construction; (6) removal of improvements; (7) payments required from occupants of Government acquired land; (8) withdrawals by owners of deposits made in court by Government, and (9) use of land by owner when easement is acquired. The provisions of this section shall not subject the United States to any liability nor affect the validity of any acquisitions by purchase or condemnation and shall be exempt from the operations of subchapter II of chapter 5, and chapter 7, of title 5.

(Pub. L. 86-645, title III, § 302, July 14, 1960, 74 Stat. 502.)

CODIFICATION

"Subchapter II of chapter 5, and chapter 7, of title 5" was substituted for "the Administrative Procedure Act of June 11, 1946, as amended" on authority of section 7(b) of Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

SHORT TITLE

Section 303 of Pub. L. 86-645 provided that: "Title III of this Act [which enacted this section and section 596 of this title] may be cited as the 'Land Acquisition Policy Act of 1960'."

§ 598. Resettlement of displaced families, individuals, and business concerns

(a) Acquisition of land; condemnation expenses; bond

Whenever any State, or any agency or instrumentality of a State or local government, or any nonprofit incorporated body organized or chartered under the law of the State in which it is located, or any nonprofit association or combination of such bodies, agencies or instrumentalities, shall undertake to secure any lands or interests therein as a site for the resettlement of families, individuals, and business concerns displaced by a river and harbor improvement, flood control or other water resource project duly authorized by Congress, and when it has been determined by the Secretary of the Army that the State is unable to acquire necessary lands or interests in lands or is unable to acquire such lands or interests in lands with sufficient promptness, the Secretary, upon the request of the Governor of the State in which such site is located, and after consultation with appropriate Federal, State, interstate, regional, and local departments and agencies, is authorized, in the name of the United States and prior to the approval of title by the Attorney General, to acquire, enter upon, and take possession of such lands or interests in lands by purchase, donation, condemnation or otherwise in accordance with the laws of the United States (including sections 258a to 258e of title 40). All expenses of said acquisition and any award that may be made under a condemnation proceeding, including costs of examination and abstract of title, certificate of title, appraisal, advertising, and any fees incident to acquisition, shall be paid by such State or body, agency, or instrumentality. The State, agency, instrumentality, or nonprofit body may repay such amounts from any funds made available to it for such purposes by any Federal department, agency, or instrumentality (other than the Department of the Army) having authority to make funds available for such a purpose. Pending such payment, the Secretary may expend from any funds hereafter appropriated for the project occasioning such acquisition such sums as may be necessary to carry out this section. To secure payment, the Secretary may require any such State or agency, body, or instrumentality to execute a proper bond in such amount as he may deem necessary before acquisition is commenced. Any sums paid to the Secretary by any such State or agency, body or instrumentality shall be deposited in the Treasury to the credit of the appropriation for such project.

(b) Acquisition provisions

No acquisition shall be undertaken under the authority of this section unless the Secretary has determined, after consultation with appropriate Federal, State, and local governmental agencies that (1) the development of a site is necessary in order to alleviate hardships to displaced persons; (2) the location of the site is suitable for development in relation to present or potential sources of employment; and (3) a plan for development of the site has been approved by appropriate local governmental authorities in the area or community in which such site is located.

(c) Conveyance to State, public or private nonprofit body

The Secretary is further authorized and directed by proper deed, executed in the name of the United States, to convey any lands or interests in land acquired in any State under the provisions of this section, to the State, or such public or private nonprofit body, agency, or institution in the State as the Governor may prescribe, upon such terms and conditions as may be agreed upon by the Secretary, the Governor, and the agency to which the conveyance is to be made.

(Pub. L. 90-483, title II, § 209, Aug. 13, 1968, 82 Stat. 745.)

SUBCHAPTER IV—PARTICULAR WORK OR IMPROVEMENTS

§ 601. Mississippi River; regulation of reservoirs at headwaters

It shall be the duty of the Secretary of the Army to prescribe such rules and regulations in respect to the use and administration of the reservoirs at the headwaters of the Mississippi River as in his judgment the public interest and necessity may require; which rules and regulations shall be posted in some conspicuous place or places for the information of the public. And any person knowingly and willfully violating such rules and regulations shall be liable to a fine not exceeding $500, or imprisonment, not exceeding six months, the same to be enforced by prosecution in any district court of the United States within whose territorial jurisdiction such offense may have been committed. And the Secretary of the Army shall cause such gaugings to be made at or near Saint Paul during the annual operation of said reservoirs as shall determine accurately the discharge at that point, the cost of same to be paid out of the annual appropriation for gauging the waters of the Mississippi River and its tributaries.

(Aug. 11, 1888, ch. 860, § 1, 25 Stat. 419.)

CODIFICATION

Section is from act Aug. 11, 1888, the River and Harbor Appropriation Act of 1888.

In the original text the words "said reservoirs" appeared instead of "reservoirs at the headwaters of the Mississippi river." The provision from which this section is derived, however, followed an appropriation "for continuing operations upon the reservoirs at the headwaters of the Mississippi river."

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

CROSS REFERENCES

Felony and misdemeanor defined, see section 1 of Title 18, Crimes and Criminal Procedure.

Water gauges on Mississippi River and tributaries, see section 4 of this title.

§ 602. Maintenance of channel of South Pass of Mississippi River

Upon the termination of the contract entered into with the late James B. Eads for the maintenance of the channel through the South Pass of the Mississippi River, the Secretary of the Army is directed to take charge of said channel, including the jetties, and all auxiliary works connected therewith, and thereafter to maintain with the utmost efficiency said South Pass Channel; and for that purpose he is authorized to draw his warrants from time to time on the Treasurer of the United States, until otherwise provided for by law, for such sums of money as may be necessary, not to exceed in the aggregate for any one year $100,000. For that purpose any available Government dredge may be used.

For the purpose of securing the uninterrupted examinations and surveys of the South Pass of the Mississippi River, the Secretary of the Army, upon the application of the Chief of Engineers, is authorized to draw his warrant or requisition from time to time upon the Secretary of the Treasury for such sums as may be necessary to do such work, not to exceed in the aggregate for each year the sum of $10,000.

(Aug. 11, 1888, ch. 860, §§ 1, 4, 25 Stat. 422, 424; June 6, 1900, ch. 790, § 3, 31 Stat. 584; June 13, 1902, ch. 1079, § 1, 32 Stat. 340; Aug. 30, 1954, ch. 1076, § 1(15), 68 Stat. 967.)

Codification

Except for the last sentence, the first paragraph of this section was from a part of section 3 of act June 6, 1900. The omitted portion of the original text authorized the Secretary of War, in his discretion, to terminate the contract with James B. Eads and provided that the Secretary of War should take charge of the channel "in case of the termination of said contract, by virtue of the provisions hereof or by expiration of said contract."

The last sentence of the first paragraph of this section was from a provision of section 1 of act June 13, 1902. Further provisions of the original text, for the purchase of lands and buildings on either side of the South Pass, were temporary merely and are omitted. The original text provided for the use of "the dredge boat Beta, or any other available government dredge."

The second paragraph of this section was from section 4 of act Aug. 11, 1888. In the original text, following the words "Mississippi river," the following words appeared: "As provided for in the Act of Mar. third, eighteen hundred and seventy-five."

The words "the sum of $10,000," are substituted for "the amount appropriated in this act for such purpose." $10,000 was the amount appropriated for such purpose by section 1 of act June 13, 1902.

Act Mar. 3, 1875, ch. 134, mentioned in the original text, provided in section 4 et seq., 18 Stat. 463 to 466, for a contract with James B. Eads and others to construct jetties, etc., to maintain the channel at the South Pass.

The provisions of that act and of act Aug. 11, 1888, with regard to examinations and surveys at the South Pass, remained in force notwithstanding the termination of said contract, by a provision of act June 13, 1902.

Amendments

1954—Act Aug. 30, 1954, repealed the proviso requiring that an itemized statement of expenses incurred for maintenance of the channel through, and securing uninterrupted examinations and surveys of, the South Pass of the Mississippi River, as provided in this section, should accompany the annual report of the Chief of Engineers.

Change of Name

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

Repeal of Permanent Appropriations

Effective July 1, 1935, the permanent appropriations provided for in the first and second paragraphs of this section were repealed by act June 26, 1934, ch. 756, § 2, 48 Stat. 1225, 1226, that act authorizing, in lieu thereof, annual appropriations from the general fund of the Treasury. See section 725a of Title 31, Money and Finance.

§ 603. Repealed. Mar. 2, 1945, ch. 19, § 3, 59 Stat. 23

Section, acts July 25, 1912, ch. 253, § 1, 37 Stat. 222; July 3, 1930, ch. 847, § 3, 46 Stat. 946; Oct. 17, 1940, ch. 895, § 3, 54 Stat. 1200, relating to removal of temporary obstructions and to minor improvements in navigable waters, is now covered by section 603a of this title.

§ 603a. Removal of snags and debris, and straightening, clearing, and protecting channels in navigable waters

The Secretary of the Army is authorized to allot not to exceed $300,000 from any appropriations made prior to or after March 2, 1945, for any one fiscal year for improvement of rivers and harbors, for removing accumulated snags and other debris, and for protecting, clearing, and straightening channels in navigable harbors and navigable streams and tributaries thereof, when in the opinion of the Chief of Engineers such work is advisable in the interest of navigation or flood control.

(Mar. 2, 1945, ch. 19, § 3, 59 Stat. 23.)

Change of Name

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

Cross References

Flood control, removal of obstructions and clearing of channels, see section 701g of this title.

§ 604. Removal of snags, etc., from Mississippi River

For the purpose of removing snags, wrecks, and other obstructions in the Mississippi River, the Atchafalaya and Old Rivers from the junction with the Mississippi and Red Rivers down the Atchafalaya River as far down as Melville, Louisiana, the Secretary of the Army, upon the application of the Chief of Engineers, is authorized to draw his warrant or requisition from time to time upon the Secretary of the Treasury for such sums as may be necessary to do such

work, not to exceed in the aggregate for each year the sum of $100,000.

(Aug. 11, 1888, ch. 860, §§ 1, 7, 25 Stat. 421, 424; Mar. 3, 1909, ch. 264, § 3, 35 Stat. 817; Aug. 30, 1954, ch. 1076, § 1(15), 68 Stat. 967.)

CODIFICATION

Section is from the Rivers and Harbors Appropriation Act of 1888, act Aug. 11, 1888, as affected by act Mar. 3, 1909.

Act Mar. 3, 1909, made the provisions of act Aug. 11, 1888, for the removal of snags applicable to "the Atchafalaya and Old Rivers from the junction with the Mississippi and Red Rivers down the Atchafalaya River as far as Melville, Louisiana."

Section 7 of act Aug. 11, 1888, provided for "securing the uninterrupted work of operating snag boats on the upper Mississippi River" as well as for the removal of snags. The provision for operating snag boats is set out as section 605 of this title.

The words "the sum of $100,000" are substituted for "the amounts appropriated in this act for such purposes." An appropriation of $100,000 for removal of snags is contained in section 1 of the act.

AMENDMENTS

1954—Act Aug. 30, 1954, repealed the proviso requiring that an itemized statement of expenses incurred in the removal of snags, etc., as provided in this section, should accompany the annual report of the Chief of Engineers.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

REPEAL OF PERMANENT APPROPRIATION

Effective July 1, 1935, the permanent appropriation provided for in this section was repealed by act June 26, 1934, ch. 756, § 2, 48 Stat. 1225, such act authorizing, in lieu thereof, an annual appropriation from the general fund of the Treasury. See section 725a of Title 31, Money and Finance.

§ 605. Operation of snag boats on Upper Mississippi River

For the purpose of securing the uninterrupted work of operating snag boats on the Upper Mississippi River the Illinois River from its mouth to Copperas Creek, and the Minnesota River and other tributaries of the Upper Mississippi River improved by the United States, the Secretary of the Army, upon the application of the Chief of Engineers, is authorized to draw his warrant or requisition from time to time upon the Secretary of the Treasury for such sums as may be necessary to do such work, not to exceed in the aggregate for each year the sum of $25,000.

(Aug. 11, 1888, ch. 860, §§ 1, 7, 25 Stat. 420, 421, 424; Mar. 2, 1907, ch. 2509, § 1, 34 Stat. 1102; Mar. 3, 1909, ch. 264, § 3, 35 Stat. 817; Aug. 30, 1954, ch. 1076, § 1(15), 68 Stat. 967.)

CODIFICATION

Section is from act, Aug. 11, 1888, as affected by acts Mar. 2, 1907, and Mar. 3, 1909.

Section 7 of act Aug. 11, 1888, also provided for the removal of snags from the Mississippi River. (See section 604 of this title.)

The words "the sum of $25,000," are substituted for "the amounts appropriated in this act for such purposes." An appropriation of $25,000 for operating snag boats was made in section 1 of the act.

Act Mar. 2, 1907, made the provisions of the earlier Act concerning snag boats applicable to the Illinois river from its mouth to Copperas Creek.

Act Mar. 3, 1909, made such provisions applicable to "the Minnesota river and other tributaries of the upper Mississippi River now or heretofore improved by the United States."

AMENDMENTS

1954—Act Aug. 30, 1954, repealed the proviso requiring that an itemized statement of expenses incurred in operation of snag boats on the Upper Mississippi River, etc., as provided in this section, should accompany the annual report of the Chief of Engineers.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

REPEAL OF PERMANENT APPROPRIATION

Effective July 1, 1935, the permanent appropriation provided for in this section was repealed by act June 26, 1934, ch. 756, § 2, 48 Stat. 1225, incorporated in section 725a of Title 31, Money and Finance, authorizing, in lieu thereof, an annual appropriation from the general fund of the Treasury.

§ 606. Removal of snags, and so forth, from Ohio River

For the purpose of securing the uninterrupted work of operating snag boats on the Ohio River and removing snags, wrecks, and other obstructions in said river, the Secretary of the Army, upon the application of the Chief of Engineers, is authorized to draw his warrant or requisition from time to time upon the Secretary of the Treasury for such sums as may be necessary to do such work, not to exceed in the aggregate for each year the sum of $50,000.

(Sept. 19, 1890, ch. 907, § 13, 26 Stat. 455; June 3, 1896, ch. 314, § 3, 29 Stat. 234; Aug. 30, 1954, ch. 1076, § 1(15), 68 Stat. 967.)

CODIFICATION

Section is from the Rivers and Harbors Appropriation Act of 1890, act Sept. 19, 1890, as amended by act June 3, 1896.

The section, as originally enacted, limited the amount to be drawn for the work, by the words "not to exceed in the aggregate for each year the sum of twenty-five thousand dollars." It was amended by act June 3, 1896 by inserting the words "fifty thousand dollars" for the words "twenty-five thousand dollars" therein.

AMENDMENTS

1954—Act Aug. 30, 1954, repealed the proviso requiring that an itemized statement of expenses incurred in removing snags, etc., from the Ohio River, as provided in this section, should accompany the annual report of the Chief of Engineers.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

REPEAL OF PERMANENT APPROPRIATION

Effective July 1, 1935, the permanent appropriation provided for in this section was repealed by act June 26, 1934, ch. 756, § 2, 48 Stat. 1225, incorporated in section 725a of Title 31, Money and Finance, authorizing, in lieu thereof, an annual appropriation from the general fund of the Treasury.

§ 607. Removal of drift from New York Harbor

So much as may be necessary of any appropriations made for specific portions of New York Harbor and its immediate tributaries may be allotted by the Secretary of the Army for the maintenance of these waterways by the collection and removal of drift.

(Aug. 8, 1917, ch. 49, § 1, 40 Stat. 252.)

CODIFICATION

Section is from act Aug. 8, 1917, the Rivers and Harbors Appropriation Act of 1917.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

CROSS REFERENCES

Separate project, with direct allotments from appropriation for maintaining rivers and harbors, to be made of work of removing drift from New York Harbor, see section 607a of this title.

§ 607a. Appropriations; separate project

On and after July 3, 1930, direct allotments from appropriations for maintenance and improvement of existing river and harbor works or other available appropriation may be made by the Secretary of the Army for the collection and removal of drift in New York Harbor and its tributary waters, and this work on and after July 3, 1930, shall be carried as a separate and distinct project.

(July 3, 1930, ch. 847, § 6, 46 Stat. 947.)

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

§ 608. Construction of fishways

Whenever river and harbor improvements shall be found to operate (whether by lock and dam or otherwise), as obstructions to the passage of fish, the Secretary of the Army may, in his discretion, direct and cause to be constructed practical and sufficient fishways, to be paid for out of the general appropriations for the streams on which such fishways may be constructed.

(Aug. 11, 1888, ch. 860, § 11, 25 Stat. 425.)

CODIFICATION

Section is from act Aug. 11, 1888, the Rivers and Harbors Appropriation Act of 1888.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

§ 609. Sluices and other work in dams for development of water power

In order to make possible the economical future development of water power, the Secretary of the Army, upon recommendation of the Chief of Engineers, is authorized, in his discretion, to provide in the permanent parts of any dam authorized at any time by Congress for the improvement of navigation such foundations, sluices, and other works, as may be considered desirable for the future development of its water power.

(July 25, 1912, ch. 253, § 12, 37 Stat. 233.)

CODIFICATION

Section is from act July 25, 1912, the Rivers and Harbors Appropriation Act of 1912.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

§ 610. Control of aquatic plant growths

(a) There is hereby authorized a comprehensive program to provide for control and progressive eradication of water-hyacinth, alligatorweed, Eurasian water milfoil, and other obnoxious aquatic plant growths, from the navigable waters, tributary streams, connecting channels, and other allied waters of the United States, in the combined interest of navigation, flood control, drainage, agriculture, fish and wildlife conservation, public health, and related purposes, including continued research for development of the most effective and economic control measures, to be administered by the Chief of Engineers, under the direction of the Secretary

of the Army, in cooperation with other Federal and State agencies. Local interests shall agree to hold and save the United States free from claims that may occur from control operations and to participate to the extent of 30 per centum of the cost of such operations. Costs for research and planning undertaken pursuant to the authorities of this section shall be borne fully by the Federal Government.

(b) There are authorized to be appropriated such amounts, not in excess of $5,000,000 annually, as may be necessary to carry out the provisions of this section. Any such funds employed for control operations shall be allocated by the Chief of Engineers on a priority basis, based upon the urgency and need of each area, and the availability of local funds.

(Pub. L. 85-500, title I, § 104, July 3, 1958, 72 Stat. 300; Pub. L. 89-298, title III, § 302, Oct. 27, 1965, 79 Stat. 1092.)

AMENDMENTS

1965—Subsec. (a). Pub. L. 89-298 designated part of existing provisions as subsec. (a), substituting "comprehensive program" and "other allied waters of the United States" for "comprehensive project" and "other allied waters in the States of North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, and Texas", providing for control and eradication of Eurasian water milfoil, and deleting "in accordance with the report of the Chief of Engineers, published as House Document Numbered 37, Eighty-fifth Congress" following "Federal and State agencies".

Subsec. (b). Pub. L. 89-298 designated part of existing provisions as subsec. (b), substituting the appropriations authorization of $5,000,000 annually as the first sentence for former provisions which authorized "an estimated additional cost for the expanded program over that now underway of $1,350,000 annually for five years, of which 70 per centum, presently estimated at $945,000, shall be borne by the United States and 30 per centum, presently estimated at $405,000, by local interests" and incorporating the former second proviso in the second sentence.

SUBCHAPTER V—PROSECUTION OF WORK GENERALLY

§ 621. By what methods river and harbor work may be authorized to be prosecuted

Any public work on canals, rivers, and harbors adopted by Congress may be prosecuted by direct appropriations, by continuing contracts, or by both direct appropriations and continuing contracts.

(Sept. 22, 1922, ch. 427, § 10, 42 Stat. 1043.)

CODIFICATION

Section is from the Rivers and Harbors Appropriation Act of 1922.

§ 622. Method of doing work generally

It shall be the duty of the Secretary of the Army to apply the money appropriated for improvements of rivers and harbors, other than surveys, estimates and gaugings, in carrying on the various works, by contract or otherwise, as may be most economical and advantageous to the Government. And all works of improvement authorized to be prosecuted or completed under contracts may, in the discretion of the Secretary of the Army, be carried on by contract or otherwise, as may be most economical or advantageous to the United States. In all cases where the project for a work of river or harbor improvement provides for the construction or use of Government dredging plant, the Secretary of the Army may, in his discretion, have the work done by contract if reasonable prices can be obtained.

(Aug. 11, 1888, ch. 860, § 3, 25 Stat. 423; July 25, 1912, ch. 253, § 1, 37 Stat. 222; Mar. 2, 1919, ch. 95, § 3, 40 Stat. 1287.)

CODIFICATION

The first sentence of this section was from a part of section 3 of the Rivers and Harbors Appropriation Act for 1888, act Aug. 11, 1888. The omitted part of this section was set out as section 623 of this title.

The second sentence of this section was from section 1 of the Rivers and Harbors Appropriation Act of 1912, act July 25, 1912. Previous similar provisions were made by acts Mar. 2, 1907, ch. 2509, § 1, 34 Stat. 1110; Feb. 27, 1911, ch. 166, § 1, 36 Stat. 952.

The last sentence of this section was from section 3 of the Rivers and Harbors Appropriation Act for 1919, act Mar. 2, 1919, which superseded a somewhat similar provision in act Aug. 8, 1917, ch. 49, § 3, 40 Stat. 261. Section 1 of act Aug. 8, 1917, ch. 49 (temporary) provided as follows: "The work proposed under the project adopted by the river and harbor Act approved July twenty-fifth, nineteen hundred and twelve, may be done by contract if reasonable prices can be obtained."

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

CROSS REFERENCES

No work to be done on private contract at cost of more than 25 per centum in excess of estimated cost of doing the work by Government plant, see section 624 of this title.

§ 623. Repealed. Oct. 31, 1951, ch. 654, § 1(57), 65 Stat. 703

Section, act Aug. 11, 1888, ch. 860, § 3, 25 Stat. 423, related to letting of contracts to lowest responsible bidder. See section 2301 et seq. of Title 10, Armed Forces.

§ 624. Limitation on power to let contract based on estimation of cost

No part of the funds appropriated after March 2, 1919 for works of river and harbor improvement shall be used to pay for any work done by private contract if the contract price is more than 25 per centum in excess of the estimated cost of doing the work by Government plant: *Provided*, That in estimating the cost of doing the work by Government plant, including the cost of labor and materials, there shall also be taken into account proper charges for depreciation of plant and all supervising and overhead expenses and interest on the capital invested in the Government plant, but the rate of interest shall not exceed the maximum prevailing rate being paid by the United States on current issues of bonds or other evidences of indebtedness.

(Mar. 2, 1919, ch. 95, § 8, 40 Stat. 1290.)

CODIFICATION

Section was from the Rivers and Harbors Appropriation Act of 1919.

COMPENSATION FOR INCREASED COSTS

Provision for payment to contractors to compensate for loss occasioned by increased cost of materials during the war with Germany was made by section 10 of act Mar. 2, 1919, and act June 5, 1920, ch. 252, § 5, 41 Stat. 1014.

REPEAL OF LIMITATION ON COSTS

A provision for limitation on the costs of projects made by section 1 of act Mar. 2, 1919, was repealed by act June 5, 1920, ch. 252, § 3, 41 Stat. 1013.

§ 625. Repealed. Oct. 31, 1951, ch. 654, § 1(58), 65 Stat. 703

Section, acts Sept. 19, 1890, ch. 907, § 2, 26 Stat. 452; July 25, 1912, ch. 253, § 8, 37 Stat. 233, related to combining several projects in one contract.

§ 626. Prosecution of work when appropriation insufficient

Whenever the appropriations made, or authorized to be made, for the completion of any river and harbor work shall prove insufficient therefor, the Secretary of the Army may, in his discretion, on the recommendation of the Chief of Engineers, apply the funds so appropriated or authorized to the prosecution of such work.

(July 25, 1912, ch. 253, § 8, 37 Stat. 233.)

CODIFICATION

Section is from part of section 8 of the Rivers and Harbors Appropriation Act of 1912. The omitted part of such section 8 was set out in section 625 of this title.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

SIMILAR PROVISIONS

A similar provision was contained in act Mar. 2, 1907, ch. 2509, § 1, 34 Stat. 1073, which was omitted from the Code as superseded.

§ 627. Application of appropriation when separate works are included therein

Where separate works or items are consolidated in River and Harbor Acts and an aggregate amount is appropriated therefor, any balances remaining to the credit of the separate works or items may be transferred to the credit of the corresponding aggregate amounts appropriated for the consolidated items, and the amounts appropriated or transferred shall, unless otherwise expressed, be expended in securing maintenance and improvement according to the respective projects adopted by Congress, after giving due regard to the respective needs of traffic. The allotments to the respective works consolidated shall be made by the Secretary of the Army upon recommendations by the Chief of Engineers. In case such works or items are consolidated and separate amounts are given with each project, the amounts so named shall be expended upon such separate projects unless, in the discretion of the Secretary of the Army, another allotment or division should be made of the same. Any balances remaining to the credit of the consolidated items shall be carried to the credit of the respective aggregate amounts appropriated for the consolidated items.

(Mar. 4, 1915, ch. 142, § 3, 38 Stat. 1052.)

CODIFICATION

Section is from the Rivers and Harbors Appropriation Act of 1915.

PRIOR PROVISIONS

Section 3 of act Mar. 4, 1915, superseded act Mar. 4, 1913, ch. 144, § 7, 37 Stat. 827, which read as follows: "Where separate works or items are consolidated in this or subsequent river and harbor Acts and an aggregate amount is appropriated therefor the amounts appropriated shall, unless otherwise expressed, be expended in securing maintenance and improvement according to the respective projects adopted by Congress, after giving due regard to the respective needs of traffic. The allotments to the respective works consolidated shall be made by the Secretary of War upon recommendations by the Chief of Engineers. In case such works or items are consolidated and separate amounts are given with each project, the amounts so named shall be expended upon such separate projects unless, in the discretion of the Secretary of War, another allotment or division should be made of the same. Any balances remaining to the credit of the consolidated items shall be carried to the credit of the respective aggregate amounts appropriated for the consolidated items."

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

SIMILAR PROVISIONS

The Rivers and Harbors Appropriation Act Mar. 2, 1919, ch. 95, § 2, 40 Stat. 1287, contained the following provision: "Where separate works or items are consolidated herein and an aggregate amount is appropriated therefor, the amount so appropriated shall, unless otherwise expressed, be expended in securing the maintenance and improvement according to the respective projects adopted by Congress after giving due regard to the respective needs of traffic. The allotments to the respective works so consolidated shall be made by the Chief of Engineers as authorized by the Secretary of War. In case such works or items are consolidated and separate amounts are given to individual projects the amounts so named shall be expended upon such separate projects. Any balances remaining to the credit of the consolidated items shall be carried to the credit of the respective aggregate amounts appropriated for the consolidated items."

Similar provisions were contained in act July 18, 1918, ch. 155, § 2, 40 Stat. 910.

§ 628. Expenditure for dredging within harbor lines

No money appropriated for the improvement of rivers and harbors shall be expended for dredging inside of harbor lines duly established.

(July 13, 1892, ch. 158, § 5, 27 Stat. 111.)

CODIFICATION

Section is from the Rivers and Harbors Appropriation Act of 1892.

CROSS REFERENCES

Harbor lines, establishment of, see section 404 of this title.

§ 629. Contract for hire of dredging plant

Whenever it shall become, in the opinion of the Secretary of the Army, necessary or desirable to hire a dredging plant or plants for the performance of any of the public work carried on under his direction the said Secretary may, in his discretion, agree for the same, either in the manner customary on March 2, 1907, or on the basis of an equitable reimbursement for deterioration of plant when in use by the Government, and a reasonable percentage of the total cost of the work.

(Mar. 2, 1907, ch. 2509, § 5, 34 Stat. 1119.)

CODIFICATION

Section is from the Rivers and Harbors Appropriation Act of 1907.

The part of the original text omitted here repealed act Apr. 28, 1904, ch. 1761, § 4, 33 Stat. 452.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

§ 630. Limitation on expenditure for purchase of dredges

No money authorized to be expended for the acquirement of any dredge or dredges shall be so expended for the purchase of any dredge or dredges from private contractors, which at the time of the proposed purchase can be manufactured at any navy yard or other government-owned factory for a sum less than it can be purchased for from such private contractor.

(Sept. 22, 1922, ch. 427, § 5, 42 Stat. 1042.)

CODIFICATION

Section is from part of section 5 of the Rivers and Harbors Appropriation Act for 1922.

The omitted portion of that section authorized the construction of six seagoing hopper dredges and limited the cost of each to $750,000.

§ 631. Transfer of property between projects

The Secretary of the Army may direct a temporary transfer of any property employed in the improvement of rivers and harbors whenever, in his judgment, such transfer would secure efficient or economical results, and such adjustment in the way of charges and credits shall be made between the projects affected as may be equitable.

(June 13, 1902, ch. 1079, § 5, 32 Stat. 373.)

CODIFICATION

Section is from part of section 5 of the Rivers and Harbors Appropriation Act of 1902.

The omitted part of that section is set out as section 558 of this title.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

CROSS REFERENCES

Transfer of material, see section 483 of Title 40. Public Buildings, Property, and Works.

§ 632. Omitted

CODIFICATION

Section, act June 25, 1910, ch. 382, § 5, 36 Stat. 676, provided that the requirements of R.S. § 3744, section 16 of Title 41, Public Contracts, should not apply to the lease of certain property or hire of vessels for use in connection with river and harbor improvements where the period of the lease or hire did not exceed three months. R.S. § 3744, which required contracts by the Secretaries of War, Navy, and Interior to be in writing and filed in the returns office of the Interior Department, was repealed by act Oct. 21, 1941, ch. 452, 55 Stat. 743.

§ 633. Protection, alteration, reconstruction, relocation, or replacement of structures and facilities; contract standards; reasonable costs

Whenever, during the construction or reconstruction of any navigation, flood control, or related water development project under the direction of the Secretary of the Army, the Chief of Engineers determines that any structure or facility owned by an agency of government and utilized in the performance of a governmental function should be protected, altered, reconstructed, relocated, or replaced to meet the requirements of navigation or flood control, or both; or to preserve the safety or integrity of such facility when its safety or usefulness is determined by the Chief of Engineers to be adversely affected or threatened by the project, the Chief of Engineers may, if he deems such action to be in the public interest, enter into a contract providing for (1) the payment from appropriations made for the construction or maintenance of such project, of the reasonable cost of replacing, relocating, or reconstructing such facility to such standard as he deems reasonable but not to exceed the minimum standard of the State or political subdivision for the same type of facility involved, except that if the existing facility exceeds the minimum standard of the State or political subdivision, the Chief of Engineers may provide a facility of comparable standard, or (2) the payment of a lump sum representing the estimated reasonable cost thereof. This section shall not be construed as modifying any existing or future requirement of local cooperation, or as indicating a policy that local interests shall not hereafter be required to assume costs of modifying such facilities. The provisions of this section may be

applied to projects hereafter authorized and to those heretofore authorized but not completed as of July 3, 1958, and notwithstanding the navigation servitude vested in the United States, they may be applied to such structures or facilities occupying the beds of navigable waters of the United States.

(Pub. L. 85-500, title I, § 111, July 3, 1958, 72 Stat. 303; Pub. L. 89-298, title III, § 309, Oct. 27, 1965, 79 Stat. 1094.)

AMENDMENTS

1965—Pub. L. 89-298 provided for payment of the reasonable cost of replacing, relocating, or reconstructing the facility to a reasonable standard, not exceeding minimum standard of State or political subdivision for same type of facility involved, except that if the existing facility exceeds the minimum standard of the State or political subdivision, the Chief of Engineers may provide a facility of comparable standard, in provision designated as clause (1), eliminated former provision for payment of reasonable actual cost of the remedial work, and designated existing provisions as clause (2).

CHAPTER 13—MISSISSIPPI RIVER COMMISSION

Sec.
641. Creation of Mississippi River Commission.
642. Appointment of commissioners; vacancies; chairman; tenure of office.
642a. Rank, pay, and allowances of Corps of Engineers officers serving as President of Mississippi River Commission.
643. Compensation of commissioners.
644. Secretary of commission.
645. Repealed.
646. Headquarters and meetings of commission.
647. Mississippi River survey
648. Arkansas River; levee and bank protection.
649. Vicksburg Harbor and Ohio River below Cache River.
650. Mississippi River below Rock Island; levee and bank protection.
651. Tributaries of Mississippi River below Cairo; levee and bank protection.

§ 641. Creation of Mississippi River Commission

A commission is created to be called "The Mississippi River Commission", to consist of seven members.

(June 28, 1879, ch. 43, § 1, 21 Stat. 37.)

CODIFICATION

This was the first section of an act entitled "An act to provide for the appointment of a 'Mississippi River Commission' for the improvement of said river from the Head of the Passes near its mouth to its headwaters".

APPROPRIATION FOR SALARIES AND EXPENSES

Section 7 of act June 28, 1879, omitted as temporary and executed, provided for the expenditure of an appropriation of $175,000 for salaries of the commission and necessary expenses of surveys, examinations, etc.

MISSOURI RIVER COMMISSION

The Missouri River Commission was created by act July 5, 1884, ch. 229, § 1, 23 Stat. 144, and repealed by act July 13, 1902, ch. 1079, § 1, 32 Stat. 367.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 642, 647 of this title.

§ 642. Appointment of commissioners; vacancies; chairman; tenure of office

The President of the United States shall, by and with the advice and consent of the Senate, appoint seven commissioners, three of whom shall be selected from the Engineer Corps of the Army, one from the National Ocean Survey, and three from civil life, two of whom shall be civil engineers. And any vacancy which may occur in the commission shall in like manner be filled by the President of the United States; and he shall designate one of the commissioners appointed from the Engineer Corps of the Army to be president of the commission. The commissioners appointed under sections 641 to 644, 646, and 647 of this title, except those appointed from civil life, shall remain in office subject to removal by the President of the United States. Each commissioner appointed from civil life after November 7, 1966, shall be appointed for a term of nine years.

(June 28, 1879, ch. 43, § 2, 21 Stat. 37; Nov. 7, 1966, Pub. L. 89-789, title II, § 208, 80 Stat. 1423.)

REFERENCES IN TEXT

Section 643 of this title, included in the reference in text to sections 641 to 644, 646, and 647 of this title, was omitted from the Code.

AMENDMENTS

1966—Pub. L. 89-789 inserted ", except those appointed from civil life," and provided a nine year term for each commissioner appointed from civil life after Nov. 7, 1966.

CHANGE OF NAME

The Coast and Geodetic Survey was consolidated with the National Weather Bureau in 1965 to form the Environmental Science Services Administration by Reorg. Plan No. 2 of 1965, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318. The Environmental Science Services Administration was abolished in 1970 and its personnel, property, records, etc., were transferred to the National Oceanic and Atmospheric Administration by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090. By order of the Acting Associate Administrator of the National Oceanic Atmospheric Administration, 35 F.R. 19249, Dec. 19, 1970, the Coast and Geodetic Survey was redesignated the National Ocean Survey. See notes under section 311 of Title 15, Commerce and Trade.

TRANSFER OF FUNCTIONS

The functions of all officers of the Department of Commerce and all functions of all officers and employees of such Department, were, with a few exceptions, transferred to the Secretary of Commerce, with power vested in him to authorize their performance or the performance of any of his functions by any of such officers, agencies and employees, by Reorg. Plan No. 5 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1263, set out in the Appendix to Title 5, Government Organization and Employees.

CROSS REFERENCES

President of commission as executive officer, qualifications, rank, etc., see section 702h of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 647 of this title.

§ 642a. Rank, pay, and allowances of Corps of Engineers officers serving as President of Mississippi River Commission

Any officer of the Corps of Engineers who has served or shall serve four years as President of the Mississippi River Commission and who has been or shall subsequently be retired, shall, from the date of such retirement, receive the rank, pay, and allowances of a retired major general.

(June 15, 1936, ch. 548 (pt.), as added Aug. 18, 1941, ch. 377, § 3, 55 Stat. 644.)

CODIFICATION

Section was formerly classified to section 1026b of title 10 prior to the general revision and enactment of Title 10, Armed Forces, by act Aug. 10, 1956, ch. 1041, § 1, 70A Stat. 1.

§ 643. Omitted

CODIFICATION

Section, acts June 28, 1879, ch. 43, § 2, 21 Stat. 37; June 25, 1910, ch. 382, § 1, 36 Stat. 658; Mar. 1, 1917, ch. 144, § 4, 39 Stat. 951, related to compensation of commissioners, and is now covered by section 702h of this title.

§ 644. Secretary of commission

The Secretary of the Army may detail from the Engineer Corps of the Army of the United States an officer to act as secretary of said commission.

(June 28, 1879, ch. 43, § 6, 21 Stat. 38.)

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces", which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 642, 647 of this title.

§ 645. Repealed. Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 642

Section, act July 25, 1912, ch. 253, § 1, 37 Stat. 218, related to traveling expenses of civilian members of commission and of Assistant Engineer of Board of Engineers for Rivers and Harbors.

§ 646. Headquarters and meetings of commission

The headquarters and general offices of said commission shall be located at some city or town on the Mississippi River, to be designated by the Secretary of the Army, and the meetings of the commission except such as are held on Government boats during the time of the semi-annual inspection trips of the commission shall be held at said headquarters and general offices, the times of said meetings to be fixed by the president of the commission, who shall cause due notice of such meetings to be given members of the commission and the public.

(June 28, 1879, ch. 43, § 8, as added Feb. 18, 1901, ch. 377, 31 Stat. 793.)

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces", which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 642, 647 of this title.

§ 647. Mississippi River survey

Detail of assistants; vessels; instruments—It shall be the duty of the Mississippi River Commission to direct and complete such surveys of the Mississippi River, between the Head of the Passes near its mouth to its headwaters as may have been in progress June 28, 1879, and to make such additional surveys, examinations, and investigations, topographical, hydrographical, and hydrometrical, of said river and its tributaries, as may be deemed necessary by said commission to carry out the objects of sections 641 to 644, 646, and 647 of this title. And to enable said commission to complete such surveys, examinations, and investigations, the Secretary of the Army shall, when requested by said commission, detail from the Engineer Corps of the Army such officers and men as may be necessary, and shall place in the charge and for the use of said commission such vessel or vessels and such machinery and instruments as may be under his control and may be deemed necessary. And the Secretary of Commerce shall, when requested by said commission in like manner detail from the National Ocean Survey such officers and men as may be necessary, and shall place in the charge and for the use of said commission such vessel or vessels and such machinery and instruments as may be under his control and may be deemed necessary. And the said commission may, with the approval of the Secretary of the Army, employ such additional force and assistants, and provide, by purchase or otherwise, such vessels or boats and such instruments and means as may be deemed necessary.

Plans; report—It shall be the duty of said commission to take into consideration and mature such plan or plans and estimates as will correct, permanently locate, and deepen the channel and protect the banks of the Mississippi River; improve and give safety and ease to the navigation thereof; prevent destructive floods; promote and facilitate commerce, trade, and the postal service; and when so prepared and matured, to submit to the Secretary of the Army a full and detailed report of their proceedings and actions, and of such plans, with estimates of the cost thereof, for the purposes aforesaid, to be by him transmitted to Congress: *Provided*, That the commission shall report in full upon the practicability, feasibility, and probable cost of the various plans known as the jetty system, the levee system, and the outlet system, as well as upon such others as they deem necessary.

Plans for immediate works—The said commission may, prior to the completion of all the surveys and examinations contemplated by sections 641 to 644, 646, and 647 of this title, prepare and submit to the Secretary of the Army, plans, specifications, and estimates of costs for such immediate works as, in the judgment of said commission, may constitute a part of the general system of works herein contemplated, to be by him transmitted to Congress.

(June 28, 1879, ch. 43, §§ 3-5, 21 Stat. 37, 38; Feb. 14, 1903, ch. 552, § 4, 32 Stat. 826.)

REFERENCES IN TEXT

Section 643 of this title, included in the reference in text to sections 641 to 644, 646, and 647 of this title, was omitted from the Code.

CODIFICATION

The words "Secretary of Commerce" in the first paragraph, originally read "Secretary of the Treasury" but were changed to conform to sections 4 and 10 of act Feb. 14, 1903, set forth as sections 1511, 1513, 1515, and 1516 of Title 15, Commerce and Trade, transferring the Coast and Geodetic Survey and the powers and duties pertaining thereto, from the Department of the Treasury to the Department of Commerce.

CHANGE OF NAME

The Coast and Geodetic Survey was consolidated with the National Weather Bureau in 1965 to form the Environmental Science Services Administration by Reorg. Plan No. 2 of 1965, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318. The Environmental Science Services Administration was abolished in 1970 and its personnel, property, records, etc., were transferred to the National Oceanic and Atmospheric Administration by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090. By order of the Acting Associate Administrator of the National Oceanic Atmospheric Administration, 35 F.R. 19249, Dec. 19, 1970, the Coast and Geodetic Survey was redesignated the National Ocean Survey. See notes under section 311 of Title 15, Commerce and Trade.

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

TRANSFER OF FUNCTIONS

The functions of all officers of the Department of Commerce and all functions of all officers and employees of such Department, were, with a few exceptions, transferred to the Secretary of Commerce, with power vested in him to authorize their performance or the performance of any of his functions by any of such officers, agencies, and employees, by Reorg. Plan No. 5 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1263, set out in Appendix to Title 5, Government Organization and Employees.

TRIBUTARIES

Act Mar. 3, 1881, ch. 136, 21 Stat. 474, provided in part as follows: "It shall be the duty of said commission to take into consideration, and of the Secretary of War [now Secretary of the Army] to extend operations, under their supervision, to tributaries of the Mississippi River to the extent, and not further, that may be necessary in the judgment of said commission to the perfection of the general and permanent improvement of said Mississippi River."

CROSS REFERENCES

Flood control work for Mississippi River, see section 702 of this title.

Printing reports of the Mississippi River Commission, see section 556 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 642 of this title.

§ 648. Arkansas River; levee and bank protection

The jurisdiction of the Mississippi River Commission is extended so as to include that part of the Arkansas River between its mouth and the intersection thereof with the division line between Lincoln and Jefferson Counties, and any funds which are appropriated by Congress for improving the Mississippi River between Head of Passes and the mouth of the Ohio River, and which may be allotted to levees and bank revetment, may be expended within the limits of said extended jurisdiction under the direction of the Secretary of the Army, in accordance with the plans, specifications, and recommendations of the Mississippi River Commission, as approved by the Chief of Engineers, and upon like terms and conditions for levees and bank revetment upon any part of the Mississippi River now under the jurisdiction of said commission, and in such manner as will best promote and accomplish the purposes for which commission was created, in so far as the territory hereby added to its said jurisdiction may be involved.

(July 27, 1916, ch. 260, § 1, 39 Stat. 402.)

CODIFICATION

Section is from part of section 1 of the Rivers and Harbors Appropriation Act of 1916.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

§ 649. Vicksburg Harbor and Ohio River below Cache River

The harbor at Vicksburg, Mississippi, and the Ohio River from its mouth to the mouth of the Cache River, are transferred to and placed under the control and jurisdiction of the Mississippi River Commission: *Provided*, That no part of the improvement of the Ohio River, with a view to the construction of locks and dams, shall be considered as transferred to or placed under the control and jurisdiction of the Mississippi River Commission.

(July 27, 1916, ch. 260, § 1, 39 Stat. 402.)

CODIFICATION

Section is from part of section 1 of the Rivers and Harbors Appropriation Act of 1916.

§ 650. Mississippi River below Rock Island; levee and bank protection

Any funds which are appropriated by Congress for improving the Mississippi River be-

tween Head of Passes and the mouth of the Ohio River, and which may be allotted to levees, may be expended, under the direction of the Secretary of the Army, in accordance with the plans, specifications, and recommendations of the Mississippi River Commission, as approved by the Chief of Engineers, for levees upon any part of said river between Head of Passes and Rock Island, Illinois, in such manner as, in their opinion, shall best improve navigation and promote the interest of commerce at all stages of the river.

(July 27, 1916, ch. 260, § 1, 39 Stat. 402.)

CODIFICATION

Section is from part of section 1 of the Rivers and Harbors Appropriation Act of 1916.

PRIOR PROVISIONS

This provision superseded act June 4, 1906, ch. 2572, 34 Stat. 208, which contained similar provisions.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

§ 651. Tributaries of Mississippi River below Cairo; levee and bank protection

The jurisdiction of the Mississippi River Commission is extended, for the purposes of levee protection and bank protection, to the tributaries and outlets of the Mississippi River between Cairo, Illinois, and the Head of the Passes, in so far as these tributaries and outlets are affected by the flood waters of the Mississippi River.

(Sept. 22, 1922, ch. 427, § 13, 42 Stat. 1047.)

CODIFICATION

Section is from the Rivers and Harbors Appropriation Act for the year 1922.

CHAPTER 14—CALIFORNIA DÉBRIS COMMISSION

Sec.
661. Creation of commission; appointment of members; vacancies; powers generally.
662. Organization; compensation of members; rules and regulations of procedure; traveling expenses.
663. Territorial jurisdiction over hydraulic mining; hydraulic mining injurious to navigation prohibited.
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683. Tax on operation of hydraulic mines; "débris fund"; advances by mine owners; storage for water and use of outlet facilities.
684. Cooperation by commission with State authorities.
685. Construction by commission of restraining works, etc.; use of débris fund.
686. Construction of restraining works in conjunction with State.
687. Use of State dredge and appliances in river and harbor improvements.

§ 661. Creation of commission; appointment of members; vacancies; powers generally

A commission is created, to be known as the California Débris Commission, consisting of three members. The President of the United States shall, by and with the advice and consent of the Senate, appoint the commission from officers of the Corps of Engineers, United States Army. Vacancies occurring therein shall be filled in like manner. It shall have the authority, and exercise the powers set forth in sections 662 to 685 of this title, under the supervision of the Chief of Engineers and direction of the Secretary of the Army.

(Mar. 1, 1893, ch. 183, § 1, 27 Stat. 507.)

REFERENCES IN TEXT

Section 681 of this title, included in the reference in text to sections 662 to 685 of this title, was repealed by Pub. L. 94-579, title VII, § 704(a), Oct. 21, 1976, 90 Stat. 2793.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces", which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

§ 662. Organization; compensation of members; rules and regulations of procedure; traveling expenses

Said commission shall organize by the selection of such officers as may be required in the performance of its duties the same to be selected from the members thereof. The members of said commissicn shall receive no greater compensation than is now allowed by law to each, respectively, as an officer of said Corps of Engineers. It shall also adopt rules and regulations, not inconsistent with law, to govern its deliberations and prescribe the method of procedure under the provisions of this chapter. While

traveling on duty the officers of the commission shall receive the mileage allowed by law.

(Mar. 1, 1893, ch. 183, § 2, 27 Stat. 507; June 6, 1900, ch. 791, § 1, 31 Stat. 631.)

CODIFICATION

The last sentence of this section was from a provision accompanying an appropriation for the expenses of the Commission in the Sundry Civil Appropriation Act for 1901, which originally read as follows: "So much of the Act of March third, eighteen hundred and ninety-nine, as provides that the members of the California Débris Commission shall receive only actual expenses in lieu of mileage while traveling on duty is hereby repealed, and hereafter the officers of the commission shall receive the mileage allowed by law."

Act Mar. 3, 1899, ch. 424, § 1, 30 Stat. 1109, mentioned in said provision, provided that the officers of the Commission traveling on duty might be paid their actual traveling expenses, in lieu of mileage allowed by law, and should thereafter receive no mileage.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 661 of this title.

§ 663. Territorial jurisdiction over hydraulic mining; hydraulic mining injurious to navigation prohibited

The jurisdiction of said commission, in so far as the same affects mining carried on by the hydraulic process, shall extend to all such mining in the territory drained by the Sacramento and San Joaquin River systems in the State of California. Hydraulic mining, as defined in section 668 of this title, directly or indirectly injuring the navigability of said river systems, carried on in said territory other than as permitted under the provisions of this chapter is prohibited and declared unlawful.

(Mar. 1, 1893, ch. 183, § 3, 27 Stat. 507.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 661, 669 of this title.

§ 664. General duties as to plans for protection of navigation

It shall be the duty of said commission to mature and adopt such plan or plans, from examinations and surveys made prior to March 1, 1893, and from such additional examinations and surveys as it may deem necessary, as will improve the navigability of all the rivers comprising said systems, deepen their channels, and protect their banks. Such plan or plans shall be matured with a view of making the same effective as against the encroachment of and damage from débris resulting from mining operations, natural erosion, or other causes, with a view of restoring, as near as practicable and the necessities of commerce and navigation demand, the navigability of said rivers to the condition existing in 1860, and permitting mining by the hydraulic process, as the term is understood in said State, to be carried on, provided the same can be accomplished, without injury to the navigability of said rivers or the lands adjacent thereto.

(Mar. 1, 1893, ch. 183, § 4, 27 Stat. 507.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 661 of this title.

§ 665. Survey for débris reservoirs; study of methods of mines and mining

It shall further examine, survey, and determine the utility and practicability, for the purposes hereinafter indicated, of storage sites in the tributaries of said rivers and in the respective branches of said tributaries, or in the plains, basins, sloughs, and tule and swamp lands adjacent to or along the course of said rivers, for the storage of débris or water or as settling reservoirs, with the object of using the same by either or all of these methods to aid in the improvement and protection of said navigable rivers by preventing deposits therein of débris resulting from mining operations, natural erosion, or other causes, or for affording relief thereto in flood time and providing sufficient water to maintain scouring force therein in the summer season; and in connection therewith to investigate such hydraulic and other mines as are or may have been worked by methods intended to restrain the débris and material moved in operating such mines by impounding dams, settling reservoirs, or otherwise, and in general to make such study of and researches in the hydraulic mining industry as science, experience, and engineering skill may suggest as practicable and useful in devising a method or methods whereby such mining may be carried on as aforesaid.

(Mar. 1, 1893, ch. 183, § 5, 27 Stat. 507.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 661 of this title.

§ 666. Noting conditions of navigable channels

The said commission shall from time to time note the conditions of the navigable channels of said river systems, by cross-section surveys or otherwise, in order to ascertain the effect therein of such hydraulic mining operations as may be permitted by its orders and such as is caused by erosion, natural or otherwise.

(Mar. 1, 1893, ch. 183, § 6, 27 Stat. 508.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 661 of this title.

§ 667. Annual reports

Said commission shall submit to the Chief of Engineers, for the information of the Secretary of the Army, on or before the 15th day of November of each year, a report of its labors and transactions, with plans for the construction, completion, and preservation of the public works outlined in this chapter, together with estimates of the cost thereof, stating what amounts can be profitably expended thereon each year. The Secretary of the Army shall thereupon submit same to Congress on or before the meeting thereof.

(Mar. 1, 1893, ch. 183, § 7, 27 Stat. 508.)

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10,

Armed Forces", which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 661 of this title.

§ 668. "Hydraulic mining" and "mining by hydraulic process" defined

For the purposes of this chapter "hydraulic mining" and "mining by the hydraulic process" are declared to have the meaning and application given to said terms in the State of California.

(Mar. 1, 1893, ch. 183, § 8, 27 Stat 508.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 661, 663 of this title.

§ 669. Petition by hydraulic miners

The individual proprietor or proprietors, or in case of a corporation, its manager or agent appointed for that purpose, owning mining ground in the territory in the State of California mentioned in section 663 of this title, which it is desired to work by the hydraulic process, must file with said commission a verified petition, setting forth such facts as will comply with law and the rules prescribed by said commission.

(Mar. 1, 1893, ch. 183, § 9, 27 Stat. 508.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 661, 671 of this title.

§ 670. Surrender to United States of right to regulate débris of mine

Said petition shall be accompanied by an instrument duly executed and acknowledged, as required by the law of the said State, whereby the owner or owners of such mine or mines surrender to the United States the right and privilege to regulate by law, as provided in this chapter, or any law that may be enacted after March 1, 1893, or by such rules and regulations as may be prescribed by virtue thereof, the manner and method in which the débris resulting from the working of said mine or mines shall be restrained, and what amount shall be produced therefrom; it being understood that the surrender aforesaid shall not be construed as in any way affecting the right of such owner or owners to operate said mine or mines by any other process or method in use in said State on March 1, 1893: *Provided,* That they shall not interfere with the navigability of the aforesaid rivers.

(Mar. 1, 1893, ch. 183, § 10, 27 Stat. 508.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 661 of this title.

§ 671. Petition for common dumping ground, etc.

The owners of several mining claims situated so as to require a common dumping ground or dam or other restraining works for the débris issuing therefrom in one or more sites may file a joint petition setting forth such facts in addition to the requirements of section 669 of this title; and where the owner of a hydraulic mine or owners of several such mines have and use common dumping sites for impounding débris or as settling reservoirs, which sites are located below the mine of an applicant not entitled to use same, such fact shall also be stated in said petition. Thereupon the same proceedings shall be had as provided for herein.

(Mar. 1, 1893, ch. 183, § 11, 27 Stat. 508.)

REFERENCES IN TEXT

Herein, referred to in text, means act Mar. 1, 1893, which comprises this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 661, 676 of this title.

§ 672. Notice of petition for dumping grounds, etc.; hearing

A notice specifying briefly the contents of said petition and fixing a time previous to which all proofs are to be submitted shall be published by said commission in some newspaper or newspapers of general circulation in the communities interested in the matter set forth therein. If published in a daily paper such publication shall continue for at least ten days; if in a weekly paper in at least three issues of the same. Pending publication thereof said commission, or a committee thereof, shall examine the mine and premises described in such petition. On or before the time so fixed all parties interested, either as petitioners or contestants, whether miners or agriculturists, may file affidavits, plans, and maps in support of their respective claims. Further hearings, upon notice to all parties of record, may be granted by the commission when necessary.

(Mar. 1, 1893, ch. 183, § 12, 27 Stat. 508.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 661 of this title.

§ 673. Order by commission directing method of mining, etc.; expenses of complying with order; exemption from mining taxes

In case a majority of the members of said commission, within thirty days after the time so fixed, concur in the decision in favor of the petitioner or petitioners, the said commission shall thereupon make an order directing the methods and specifying in detail the manner in which operations shall proceed in such mine or mines; what restraining or impounding works, if any, if facilities therefor can be found, shall be built and maintained; how and of what material; where to be located; and in general set forth such further requirements and safeguards as will protect the public interests and prevent injury to the said navigable rivers and the lands adjacent thereto, with such further conditions and limitations as will observe all the provisions of this chapter in relation to the working thereof and the payment of taxes on the gross proceeds of the same: *Provided,* That all expense incurred in complying with said order shall be borne by the owner or owners of such mine or mines: *And provided further,* That where it shall appear to said commission that hydraulic mining may be carried on without injury to the navigation of said navigable rivers

and the lands adjacent thereto, an order may be made authorizing such mining to be carried on without requiring the construction of any restraining or impounding works or any settling reservoirs: *And provided also,* That where such an order is made a license to mine, no taxes provided for in this chapter on the gross proceeds of such mining operations shall be collected.

(Mar. 1, 1893, ch. 183, § 13, 27 Stat. 508; Feb. 27, 1907, ch. 2077, 34 Stat. 1001.)

CODIFICATION

Act Feb. 27, 1907, amended section by insertion of the words "if any" after the words "restraining or impounding works" and the addition of the last two provisos.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 661, 679 of this title.

§ 674. Plans for and supervision of work required by order; permit to commence mining

Such petitioner or petitioners must within a reasonable time present plans and specifications of all works required to be built in pursuance of said order for examination, correction, and approval by said commission; and thereupon work may immediately commence thereon under the supervision of said commission or representative thereof attached thereto from said Corps of Engineers, who shall inspect same from time to time. Upon completion thereof, if found in every respect to meet the requirements of the said order and said approved plans and specifications, permission shall thereupon be granted to the owner or owners of such mine or mines to commence mining operations, subject to the conditions of said order and the provisions of this chapter.

(Mar. 1, 1893, ch. 183, § 14, 27 Stat. 509.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 661 of this title.

§ 675. Conditions precedent for commencement of mining operations

No permission granted to a mine owner or owners under this chapter shall take effect, so far as regards the working of a mine, until all impounding dams or other restraining works, if any are prescribed by the order granting such permission, have been completed and until the impounding dams or other restraining works or settling reservoirs provided by said commission have reached such a stage as, in the opinion of said commission, it is safe to use the same: *Provided, however,* That if said commission shall be of the opinion that the restraining and other works already constructed at the mine or mines shall be sufficient to protect the navigable rivers of said systems and the work of said commission, then the owner or owners of such mine or mines may be permitted to commence operations.

(Mar. 1, 1893, ch. 183, § 15, 27 Stat. 509.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 661 of this title.

§ 676. Allotment of expenses for common dumping grounds; location of impounding works

In case the joint petition referred to in section 671 of this title is granted, the commission shall fix the respective amounts to be paid by each owner of such mines toward providing and building necessary impounding dams or other restraining works. In the event of a petition being filed after the entry of such order, or in case the impounding dam or dams or other restraining works have already been constructed and accepted by said commission, the commission shall fix such amount as may be reasonable for the privilege of dumping therein, which amount shall be divided between the original owners of such impounding dams or other restraining works in proportion to the amount respectively paid by each party owning same. The expense of maintaining and protecting such joint dam or works shall be divided among mine owners using the same in such proportion as the commission shall determine. In all cases where it is practicable, restraining and impounding works are to be provided, constructed, and maintained by mine owners near or below the mine or mines before reaching the main tributaries of said navigable waters.

(Mar. 1, 1893, ch. 183, § 16, 27 Stat. 509.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 661 of this title.

§ 677. Limitation as to quantity of débris washed away

At no time shall any more débris be permitted to be washed away from any hydraulic mine or mines situated on the tributaries of said rivers and the respective brancnes of each, worked under the provisions of this chapter, than can be impounded within the restraining works erected.

(Mar. 1, 1893, ch. 183, § 17, 27 Stat. 509.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 661 of this title.

§ 678. Modification and revocation of permit to mine

The said commission may, at any time when the condition of the navigable rivers or when the capacities of all impounding and settling facilities erected by mine owners or such as may be provided by Government authority require same, modify the order granting the privilege to mine by the hydraulic mining process so as to reduce the amount thereof to meet the capacities of the facilities then in use; or, if actually required in order to protect the navigable rivers from damage or in case of failure to pay the tax prescribed by section 683 of this title within thirty days after same becomes due, may revoke same until the further notice of the commission.

(Mar. 1, 1893, ch. 183, § 18, 27 Stat. 509; June 19, 1934, ch. 661, § 1, 48 Stat. 1118.)

AMENDMENTS

1934—Act June 19, 1934, inserted "or in case of failure to pay the tax prescribed by section 683 of this title within thirty days after same becomes due".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 661 of this title.

§ 679. Violation of permit to mine; penalty

An intentional violation on the part of a mine owner or owners, company, or corporation, or the agents or employees of either, of the conditions of the order granted pursuant to section 673 of this title, or such modifications thereof as may have been made by said commission, shall work a forfeiture of the privileges thereby conferred, and upon notice being served by the order of said commission upon such owner or owners, company, or corporation, or agent in charge, work shall immediately cease. Said commission shall take necessary steps to enforce its orders in case of the failure, neglect, or refusal of such owner or owners, company, or corporation, or agents thereof, to comply therewith, or in the event of any person or persons, company, or corporation working by said process in said territory contrary to law.

(Mar. 1, 1893, ch. 183, § 19, 27 Stat. 510.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 661 of this title.

§ 680. Examination of mines; reports

Said commission, or a committee therefrom, or officer of said corps assigned to duty under its orders, shall, whenever deemed necessary, visit said territory and all mines operating under the provisions of this chapter. A report of such examination shall be placed on file.

(Mar. 1, 1893, ch. 183, § 20, 27 Stat. 510.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 661 of this title.

§ 681. Repealed. Pub. L. 94–579, title VII, § 704(a), Oct. 21, 1976 90 Stat. 2792

Section, act Mar. 1, 1893, ch. 183, § 21, 27 Stat. 510; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100, authorized the commission to use any of the public lands, etc., of the United States, and the withdrawal of lands, etc., required from sale or entry.

EFFECTIVE DATE OF REPEAL

Section 704(a) of Pub. L. 94–579 provided in part that this section is repealed effective on and after Oct. 21, 1976.

SAVINGS PROVISIONS

Repeal by Pub. L. 94–579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701(a) of Pub. L. 94–579, set out as a Savings Provisions note under section 1701 of Title 43, Public Lands.

§ 682. Malicious injury to works; injury to navigable waters by hydraulic mining; penalty

Any person or persons who willfully or maliciously injure, damage, or destroy, or attempt to injure, damage, or destroy, any dam or other work erected under the provisions of this chapter for restraining, impounding, or settling purposes, or for use in connection therewith, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not to exceed the sum of $5,000 or be imprisoned not to exceed five years, or by both such fine and imprisonment, in the discretion of the court. And any person or persons, company or corporation, their agents or employees, who shall mine by the hydraulic process directly or indirectly injuring the navigable waters of the United States, in violation of the provisions of this chapter shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding $5,000, or by imprisonment not exceeding one year, or by both such fine and imprisonment, in the discretion of the court.

(Mar. 1, 1893, ch. 183, § 22, 27 Stat. 510.)

CROSS REFERENCES

Misdemeanor defined, see section 1 of Title 18, Crimes and Criminal Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 661 of this title.

§ 683. Tax on operation of hydraulic mines; "débris fund"; advances by mine owners; storage for water and use of outlet facilities

Upon the construction by the said commission of dams or other works for the detention of débris from hydraulic mines and the issuing of the order provided for by this chapter to any individual, company, or corporation to work any mine or mines by hydraulic process, the individual, company, or corporation operating thereunder working any mine or mines by hydraulic process, the débris from which flows into or is in whole or in part restrained by such dams or other works erected by said commission, shall pay for each cubic yard mined from the natural bank a tax equal to the total capital cost of the dam, reservoir, and rights-of-way divided by the total capacity of the reservoir for the restraint of débris, as determined in each case by the California Débris Commission, which tax shall be paid annually on a date fixed by said commission and in accordance with regulations to be adopted by the Secretary of the Treasury, and the Treasurer of the United States is authorized to receive the same. All sums of money paid into the Treasury under this section shall be set apart and credited to a fund to be known as the "débris fund", and shall be expended by said commission under the supervision of the Chief of Engineers and direction of the Secretary of the Army, for repayment of any funds advanced by the Federal Government or other agency for the construction of restraining works and settling reservoirs, and for maintenance: *Provided*, That said commission is authorized to receive and pay into the Treasury from the owner or owners of mines worked by the hydraulic process, to whom permission may have been granted so to work under the provisions thereof, such money advances as may be offered to aid in the construction of such impounding dams, or other restraining works, or settling reservoirs, or sites thereof, as may be deemed necessary by said commission to protect the navigable channels of said river systems, on condition that all moneys so advanced shall be refunded as the said tax is paid into the said débris fund: *And provided further*, That in no event shall the Government of the United States be held liable to refund same except as directed by this

section. The Secretary of the Army is authorized to enter into contracts to supply storage for water and use of outlet facilities from débris storage reservoirs, for domestic and irrigation purposes and power development upon such conditions of delivery, use, and payment as he may approve: *Provided*, That the moneys received from such contracts shall be deposited to the credit of the reservoir project from which the water is supplied, and the total capital cost of said reservoir, which is to be repaid by tax on mining operations as provided in this section, shall be reduced in the amount so received.

(Mar. 1, 1893, ch. 183, § 23, 27 Stat. 510; June 19, 1934, ch. 661, § 2, 48 Stat. 1118; June 25, 1938, ch. 653, 52 Stat. 1040.)

AMENDMENTS

1938—Act June 25, 1938, added provisions relating to storage for water and use of outlet facilities.

1934—Act June 19, 1934, substituted an annual tax for each cubic yard mined from the natural bank, based on total capital cost divided by total capacity, for the 3 per centum gross proceeds tax, and required money from débris fund to be expended in repayment of Government advances for construction and maintenance, instead of authorizing the expenditure of such money in addition to appropriations for construction and maintenance.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

TRANSFER OF FUNCTIONS

For transfer of certain functions insofar as they pertain to the Air Force, and to the extent that they were not previously transferred to the Secretary of the Air Force and Department of the Air Force from the Secretary of the Army and Department of the Army, see Secretary of Defense Transfer Order No. 40, July 22, 1949.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 661, 678 of this title.

§ 684. Cooperation by commission with State authorities

For the purpose of securing harmony of action and economy in expenditures in the work to be done by the United States and the State of California, respectively, the former in its plans for the improvement and protection of the navigable streams and to prevent the depositing of mining débris or other materials within the same, and the latter in its plans authorized by law for the reclamation, drainage, and protection of its lands, or relating to the working of hydraulic mines, the said commission is empowered to consult thereon with a commission of engineers of said State, if authorized by said State for said purpose, the result of such conference to be reported to the Chief of Engineers of the United States Army, and if by him approved shall be followed by said commission.

(Mar. 1, 1893, ch 183, § 24, 27 Stat. 511.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 661 of this title.

§ 685. Construction by commission of restraining works, etc.; use of débris fund

Said commission, in order that such material as is now or may hereafter be lodged in the tributaries of the Sacramento and San Joaquin River systems resulting from mining operations, natural erosion, or other causes, shall be prevented from injuring the said navigable rivers or such of the tributaries of either as may be navigable and the land adjacent thereto, is directed and empowered, when appropriations are made therefor by law, or sufficient money is deposited for that purpose in said débris fund, to build at such points above the head of navigation in said rivers and on the main tributaries thereof, or branches of such tributaries, or any place adjacent to the same, which in the judgment of said commission, will effect said object (the same to be of such material as will insure safety and permanency), such restraining or impounding dams and settling reservoirs, with such canals, locks, or other works adapted and required to complete same. The recommendations contained in Executive Document Numbered 267, Fifty-first Congress, second session, and Executive Document Numbered 98, Forty-seventh Congress, first session, as far as they refer to impounding dams, or other restraining works, are adopted, and the same are directed to be made the basis of operations.

(Mar. 1, 1893, ch. 183, § 25, 27 Stat. 511.)

REFERENCES IN TEXT

Executive Document No. 267, referred to in text, contained a report of Lieut. Col. G. H. Mendell, Corps of Engineers, U.S.A., dated Jan. 26, 1882, prepared pursuant to a provision in act June 14, 1880, ch. 211, 21 Stat. 196. Executive Document No. 98, also referred to in text, contained a report by a board of engineers created by act Oct. 1, 1888, ch. 1057, 25 Stat. 498.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 661 of this title.

§ 686. Construction of restraining works in conjunction with State

The Secretary of the Army, in expending appropriations in the preparation for and construction of works for the restraining or impounding of mining débris in the State of California, is authorized to enter into an agreement that the contractor shall look solely to the State of California for one-half of such expense, to be paid out of said State's appropriation, and the United States shall in nowise be liable for said one-half.

The Secretary of the Army, in carrying out the provisions of any Act of Congress, providing for the restraining or impounding of mining débris in California, may, in his discretion, when in his judgment the aggregate of appropriations already made by said State and Congress and available therefor are sufficient to complete the same, undertake the works necessary thereto by hired labor and by purchase of supplies and materials therefor, and may accept payments on account thereof as the work progresses under and according to the provisions of

the acts of the legislature of said State for such purposes.

(July 1, 1898, ch. 546, 30 Stat. 631; Mar. 3, 1899, ch. 425, § 1, 30 Stat. 1148.)

CODIFICATION

Section is from the Rivers and Harbors Appropriation Act of 1899 and not a part of act Mar. 1, 1983, ch. 183, 27 Stat. 507, which comprises this chapter.

As originally enacted the first paragraph read as follows: "The provisions of an Act of Congress, entitled 'An Act making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, eighteen hundred and ninety-nine, and for other purposes,' approved July first, eighteen hundred and ninety-eight, authorizing the Secretary of War, in expending certain specified appropriations in the preparation for and construction of certain works for the restraining or impounding of mining débris in the State of California, to enter into a contract or contracts wherein the contractor or contractors shall look solely to that State for one-half of such expense, and that the United States shall in no wise be liable for said one-half, are hereby extended to any appropriations, when made, that may hereafter be made for said purposes."

Act July 1, 1898 authorized the Secretary of War, in contracting for the construction of certain proposed works, to enter into an agreement that the contractor should look solely to California for half of the expenses.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 412 of this title.

§ 687. Use of State dredge and appliances in river and harbor improvements

The Secretary of the Army is authorized to accept from the State of California the use of any dredger, or appliances owned or controlled by said State, conformably to any offer thereof by the said State; and the Secretary of the Army is authorized to use any such dredger or appliances in any river or harbor improvement that may be prosecuted therein by the United States, either on the part of the United States alone or conjointly with said State: *Provided*, That nothing shall be paid to the State of California for the use of said dredger, and that nothing herein contained shall create any liability against the United States.

(Mar. 3, 1899, ch. 425, § 1, 30 Stat. 1148.)

CODIFICATION

Section is from the Rivers and Harbors Appropriation Act of 1899 and not a part of act Mar. 1, 1983, ch. 183, 27 Stat. 507, which comprises this chapter.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 412 of this title.

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§ 701. Flood control generally

Laws applicable to works of improvement relating to flood control—All the provisions of existing law relating to examinations and surveys and to works of improvement of rivers and harbors shall apply, so far as applicable to examinations and surveys and to works of improvement relating to flood control. And all expenditures of funds appropriated for works and projects relating to flood control shall be made in accordance with and subject to the law governing the disbursement and expenditure of funds appropriated for the improvement of rivers and harbors.

Examinations and surveys; details from Government departments; reports—All examinations and surveys of projects relating to flood control shall include a comprehensive study of the watershed or watersheds, and the report thereon in addition to any other matter upon which a report is required shall give such data as it may be practicable to secure in regard to (a) the extent and character of the area to be affected by the proposed improvement; (b) the probable effect upon any navigable water or waterway; (c) the possible economical development and utilization of water power; and (d) such other uses as may be properly related to

or coordinated with the project. And the heads of the several departments of the Government may, in their discretion, and shall upon the request of the Secretary of the Army, detail representatives from their respective departments to assist the Engineers of the Army in the study and examination of such watersheds, to the end that duplication of work may be avoided and the various services of the Government economically coordinated therein: *Provided*, That all reports on preliminary examinations hereafter authorized, together with the report of the Board of Engineers for Rivers and Harbors thereon and the separate report of the representative of any other department, shall be submitted to the Secretary of the Army by the Chief of Engineers, with his recommendations, and shall be transmitted by the Secretary of the Army to the House of Representatives, and are ordered to be printed when so made.

Reports by Board of Engineers for Rivers and Harbors—In the consideration of all works and projects relating to flood control which may be submitted to the Board of Engineers for Rivers and Harbors for consideration and recommendation, said board shall, in addition to any other matters upon which it may be required to report, state its opinion as to (a) what Federal interest, if any, is involved in the proposed improvement; (b) what share of the expense, if any, should be borne by the United States; and (c) the advisability of adopting the project.

Aiding Committee on Public Works—All examinations and reports which may now be made by the Board of Engineers for Rivers and Harbors upon request of the Committee on Public Works relating to works or projects of navigation shall in like manner be made upon request of the Committee on Public Works on all works and projects relating to flood control.

(Mar. 1, 1917, ch. 144, § 3, 39 Stat. 950; Aug. 2, 1946, ch. 753, title I, § 121, 60 Stat. 822.)

CODIFICATION

Sections 1 and 2 of act Mar. 1, 1917, are set forth as sections 702 and 703 of this title. Section 4 was incorporated in section 643 of this title and is now covered by section 702h of this title.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

REORGANIZATION OF CONGRESSIONAL COMMITTEES

Under the Legislative Reorganization Act of 1946, act Aug. 2, 1946, and subsequent amendments of the Rules of the House, matters relating to flood control are referred to the Committee on Public Works and Transportation of the House of Representatives, in lieu of former Committee on Rivers and Harbors and Committee on Flood Control.

The Committee on Public Works of the Senate was replaced by the Committee on Environment and Public Works pursuant to S. Res. 4, Feb. 4, 1977.

EX. ORD. NO. 11296. EVALUATION OF FLOOD HAZARD IN LOCATING FEDERALLY OWNED OR FINANCED BUILDINGS, ROADS, AND OTHER FACILITIES, AND IN DISPOSING OF FEDERAL LANDS AND PROPERTIES

Ex. Ord. No. 11296, Aug. 10, 1966, 31 F.R. 10663, as amended by Pub. L. 90-608, ch. IV, § 402, Oct. 21, 1968, 82 Stat. 1194, provided:

WHEREAS uneconomic uses of the Nation's flood plains are occurring and potential flood losses are increasing despite substantial efforts to control floods; and

WHEREAS national and regional studies of areas and property subject to flooding indicate a further increase in flood damage potential and flood losses, even with continuing investment in flood protection structures; and

WHEREAS the Federal Government has extensive and continuing programs for the construction of buildings, roads, and other facilities and annually disposes of thousands of acres of Federal lands in flood hazard areas, all of which activities significantly influence patterns of commercial, residential, and industrial development; and

WHEREAS the availability of Federal loans and mortgage insurance and land use planning programs are determining factors in the utilization of lands:

NOW THEREFORE, by virtue of the authority vested in me as President of the United States, it is hereby ordered as follows:

SECTION 1. The heads of the executive agencies shall provide leadership in encouraging a broad and unified effort to prevent uneconomic uses and development of the Nation's flood plains and, in particular, to lessen the risk of flood losses in connection with Federal lands and installations and federally financed or supported improvements. Specifically:

(1) All executive agencies directly responsible for the construction of Federal buildings, structures, roads, or other facilities shall evaluate flood hazards when planning the location of new facilities and, as far as practicable, shall preclude the uneconomic, hazardous, or unnecessary use of flood plains in connection with such facilities. With respect to existing Federally owned properties which have suffered flood damage or which may be subject thereto, the responsible agency head shall require conspicuous delineation of past and probable flood heights so as to assist in creating public awareness of and knowledge about flood hazards. Whenever practical and economically feasible, flood proofing measures shall be applied to existing facilities in order to reduce flood damage potential.

(2) All executive agencies responsible for the administration of Federal grant, loan, or mortgage insurance programs involving the construction of buildings, structures, roads, or other facilities shall evaluate flood hazards in connection with such facilities and, in order to minimize the exposure of facilities to potential flood damage and the need for future Federal expenditures for flood protection and flood disaster relief, shall, as far as practicable preclude the uneconomic, hazardous, or unnecessary use of flood plains in such connection.

(3) All executive agencies responsible for the disposal of Federal lands or properties shall evaluate flood hazards in connection with lands or properties proposed for disposal to non-Federal public instrumentalities or private interests and, as may be desirable in order to minimize future Federal expenditures for flood protection and flood disaster relief and as far as practicable, shall attach appropriate restrictions with respect to uses of the lands or properties by the purchaser and his successors and may withhold such lands or properties from disposal. In carrying out this paragraph, each executive agency may make appropriate allowance for any estimated loss in sales price resulting from the incorporation of use restrictions in the disposal documents.

(4) All executive agencies responsible for programs which entail land use planning shall take flood hazards into account when evaluating plans and shall en-

courage land use appropriate to the degree of hazard involved.

SEC. 2. As may be permitted by law, the head of each executive agency shall issue appropriate rules and regulations to govern the carrying out of the provisions of Section 1 of this order by his agency.

SEC. 3. Requests for flood hazard information may be addressed to the Secretary of the Army or, in the case of lands lying in the basin of the Tennessee River, to the Tennessee Valley Authority. The Secretary or the Tennessee Valley Authority shall provide such information as may be available, including requested guidance on flood proofing. The Department of Agriculture, Department of the Interior, Department of Commerce, Department of Housing and Urban Development, and Office of Emergency Preparedness, and any other executive agency which may have information and data relating to floods shall cooperate with the Secretary of the Army in providing such information and in developing procedures to process information requests.

SEC. 4. Any requests for appropriations for Federal construction of new buildings, structures, roads, or other facilities transmitted to the Bureau of the Budget by an executive agency shall be accompanied by a statement by the head of the agency on the findings of his agency's evaluation and consideration of flood hazards in the development of such requests.

SEC. 5. As used in this order, the term "executive agency" includes any department, establishment, corporation, or other organizational entity of the executive branch of the Government.

SEC. 6. The executive agencies shall proceed immediately to develop such procedures, regulations, and information as are provided for in, or may be necessary to carry out, the provisions of Sections 1, 2, and 3 of this order. In other respects this order shall take effect on January 1, 1967.

LYNDON B. JOHNSON.

CHANGE OF NAME

The name of the Office of Emergency Planning was changed to the Office of Emergency Preparedness pursuant to Pub. L. 90-608, ch. IV, § 402, Oct. 21, 1968, 82 Stat. 1194, which provided that references in laws to the Office of Emergency Planning after Oct. 21, 1968, should be deemed references to the Office of Emergency Preparedness.

TRANSFER OF FUNCTIONS

The Office of Emergency Preparedness, including the offices of Director, Deputy Director, Assistant Directors, and Regional Directors, was abolished and all functions vested by law in the Office of Emergency Preparedness or the Director of the Office of Emergency Preparedness were transferred to the President of the United States by sections 1 and 3(a)(1) of Reorg. Plan No. 1 of 1973, eff. July 1, 1973, 38 F.R. 9579, 87 Stat. 1089, set out in the Appendix to Title 5, Government Organization and Employees.

§ 701-1. Declaration of policy of 1944 act

In connection with the exercise of jurisdiction over the rivers of the Nation through the construction of works of improvement, for navigation or flood control, as herein authorized, it is declared to be the policy of the Congress to recognize the interests and rights of the States in determining the development of the watersheds within their borders and likewise their interests and rights in water utilization and control, as herein authorized to preserve and protect to the fullest possible extent established and potential uses, for all purposes, of the waters of the Nation's rivers; to facilitate the consideration of projects on a basis of comprehensive and coordinated development; and to limit the authorization and construction of navigation works to those in which a substantial benefit to navigation will be realized therefrom and which can be operated consistently with appropriate and economic use of the waters of such rivers by other users.

In conformity with this policy:

Plans, proposals, or reports of the Chief of Engineers, Department of the Army, for any works of improvement for navigation or flood control not heretofore or herein authorized, shall be submitted to the Congress only upon compliance with the provisions of this paragraph. Investigations which form the basis of any such plans, proposals, or reports shall be conducted in such a manner as to give to the affected State or States, during the course of the investigations, information developed by the investigations and also opportunity for consultation regarding plans and proposals, and, to the extent deemed practicable by the Chief of Engineers, opportunity to cooperate in the investigations. If such investigations in whole or part are concerned with the use or control of waters arising west of the ninety-seventh meridian, the Chief of Engineers shall give to the Secretary of the Interior, during the course of the investigations, information developed by the investigations and also opportunity for consultation regarding plans and proposals, and to the extent deemed practicable by the Chief of Engineers, opportunity to cooperate in the investigations. The relations of the Chief of Engineers with any State under this paragraph shall be with the Governor of the State or such official or agency of the State as the Governor may designate. The term "affected State or States" shall include those in which the works or any part thereof are proposed to be located; those which in whole or part are both within the drainage basin involved and situated in a State lying wholly or in part west of the ninety-eighth meridian; and such of those which are east of the ninety-eighth meridian as, in the judgment of the Chief of Engineers, will be substantially affected. Such plans, proposals, or reports and related investigations shall be made to the end, among other things, of facilitating the coordination of plans for the construction and operation of the proposed works with other plans involving the waters which would be used or controlled by such proposed works. Each report submitting any such plans or proposals to the Congress shall set out therein, among other things, the relationship between the plans for construction and operation of the proposed works and the plans, if any, submitted by the affected States and by the Secretary of the Interior. The Chief of Engineers shall transmit a copy of his proposed report to each affected State, and, in case the plans or proposals covered by the report are concerned with the use or control of waters which rise in whole or in part west of the ninety-seventh meridian, to the Secretary of the Interior. Within ninety days from the date of receipt of said proposed report, the written views and recommendations of each affected State and of the Secretary of the Interior may be submitted to the Chief of Engineers. The Secretary of the Army shall transmit to the Congress, with such comments and recommendations as he deems appropriate, the proposed report together with the submit-

ted views and recommendations of affected States and of the Secretary of the Interior. The Secretary of the Army may prepare and make said transmittal any time following said ninety-day period. The letter of transmittal and its attachments shall be printed as a House or Senate document.

The use for navigation, in connection with the operation and maintenance of such works herein authorized for construction, of waters arising in States lying wholly or partly west of the ninety-eighth meridian shall be only such use as does not conflict with any beneficial consumptive use, present or future, in States lying wholly or partly west of the ninety-eighth meridian, of such waters for domestic, municipal, stock water, irrigation, mining, or industrial purposes.

The Secretary of the Interior, in making investigations of and reports on works for irrigation and purposes incidental thereto shall, in relation to an affected State or States (as defined in paragraph (a) of this section), and to the Secretary of the Army, be subject to the same provisions regarding investigations, plans, proposals, and reports as prescribed in paragraph (a) of this section for the Chief of Engineers and the Secretary of the Army. In the event a submission of views and recommendations, made by an affected State or by the Secretary of the Army pursuant to said provisions, sets forth objections to the plans or proposals covered by the report of the Secretary of the Interior, the proposed works shall not be deemed authorized except upon approval by an Act of Congress; and section 485h of title 43 and section 590z-1 of title 16 are amended accordingly.

(Dec. 22, 1944, ch. 665, § 1, 58 Stat. 887.)

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501, section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641, section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces", which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

APPLICABILITY OF SECTION TO PROJECTS AUTHORIZED BY FLOOD CONTROL ACTS

Pub. L. 90-483, title II, § 202, Aug. 13, 1968, 82 Stat. 739, provided that: "The provisions of section 1 of the Act of December 22, 1944 (Public Law Numbered 534, Seventy-eighth Congress, second session) [this section], shall govern with respect to projects authorized in this Act [Pub. L. 90-483], and the procedures therein set forth with respect to plans, proposals, or reports for works of improvement for navigation or flood control and for irrigation and purposes incidental thereto shall apply as if herein set forth in full."

Similar provisions were contained in the following prior Acts:

Nov. 7, 1966, Pub. L. 89-789, title II, § 202, 80 Stat. 1418.

Oct. 27, 1965, Pub. L. 89-298, title II, § 203, 79 Stat. 1074.

Sept. 3, 1954, c. 1264, Title II, § 202, 68 Stat. 1256.

May 17, 1950, c. 188, Title II, § 202, 64 Stat. 170.

GLENDO UNIT, WYOMING, MISSOURI RIVER BASIN PROJECT

Joint Res. July 16, 1954, ch. 532, § 2, 68 Stat. 486, provided, with respect to the Glendo unit (dam and reservoir), Missouri River Basin Project, at the Glendo site on the North Platte River in Wyoming, for waiver of the provisions of subsec. (c) of this section. Section 1 of the Joint Resolution provided for the construction and operation of such unit by the Secretary of the Interior.

SECTION AS UNAFFECTED BY SUBMERGED LANDS ACT

Provisions of this section as not amended, modified or repealed by the Submerged Lands Act, see section 1303 of Title 43, Public Lands.

CROSS REFERENCES

Soil conservation, watershed protection, and flood prevention, generally, see section 1001 et seq. of Title 16, Conservation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 43 sections 390b, 422d.

§ 701a. Declaration of policy of 1936 act

It is recognized that destructive floods upon the rivers of the United States, upsetting orderly processes and causing loss of life and property, including the erosion of lands, and impairing and obstructing navigation, highways, railroads, and other channels of commerce between the States, constitute a menace to national welfare; that it is the sense of Congress that flood control on navigable waters or their tributaries is a proper activity of the Federal Government in cooperation with States, their political subdivisions, and localities thereof; that investigations and improvements of rivers and other waterways, including watersheds thereof, for flood-control purposes are in the interest of the general welfare; that the Federal Government should improve or participate in the improvement of navigable waters or their tributaries, including watersheds thereof, for flood-control purposes if the benefits to whomsoever they may accrue are in excess of the estimated costs, and if the lives and social security of people are otherwise adversely affected.

(June 22, 1936, ch. 688, § 1, 49 Stat. 1570.)

CROSS REFERENCES

Soil conservation, watershed protection, and flood prevention, generally, see section 1001 et seq. of Title 16, Conservation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 701a-1, 701b, 701b-1, 701b-2, 701b-6, 701b-7, 701c, 701c-1, 701e, 701s of this title.

§ 701a-1. Definition of "flood control"; jurisdiction of Federal investigations

The words "flood control" as used in section 701a of this title, shall be construed to include channel and major drainage improvements, and Federal investigations and improvements of rivers and other waterways for flood control and allied purposes shall be under the jurisdiction of and shall be prosecuted by the Department of the Army under the direction of the Secretary of the Army and supervision of the Chief of Engineers, and Federal investigations of watersheds and measures for run-off and

water-flow retardation and soil-erosion prevention on watersheds shall be under the jurisdiction of and shall be prosecuted by the Department of Agriculture under the direction of the Secretary of Agriculture, except as otherwise provided by Act of Congress.

(Dec. 22, 1944, ch. 665, § 2, 58 Stat. 889.)

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces", which in sections 3010 to 3013 continued the Department of the Army under the Administrative supervision of a Secretary of the Army.

SAVINGS PROVISIONS

Authority of Secretary of Agriculture under this section as unaffected by repeal of Secretary's authority under section 701b of this title, see section 7 of act Aug. 4, 1954, set out as a Savings Provisions note under section 701b of this title.

SECTION AS UNAFFECTED BY SUBMERGED LANDS ACT

Provisions of this section as not amended, modified or repealed by the Submerged Lands Act, see section 1303 of Title 43, Public Lands.

§ 701b. Supervision of Secretary of Army; reclamation projects unaffected

Federal investigations and improvements of rivers and other waterways for flood control and allied purposes shall be under the jurisdiction of and shall be prosecuted by the Department of the Army under the direction of the Secretary of the Army and supervision of the Chief of Engineers, except as otherwise provided by Act of Congress; and in his reports upon examinations and surveys, the Secretary of the Army shall be guided as to flood-control measures by the principles set forth in section 701a of this title in the determination of the Federal interests involved: *Provided*, That the foregoing grant of authority shall not interfere with investigations and river improvements incident to reclamation projects that may now be in progress or may be hereafter undertaken by the Bureau of Reclamation of the Interior Department pursuant to any general or specific authorization of law.

(June 22, 1936, ch. 688, § 2, 49 Stat. 1570; June 28, 1938, ch. 795, § 1, 52 Stat. 1215; Aug. 18, 1941, ch. 377, § 1, 55 Stat. 638; Aug. 4, 1954, ch. 656, § 7, 68 Stat. 668.)

AMENDMENTS

1954—Act Aug. 4, 1954, repealed provisions conferring authority on the Department of Agriculture under the direction of the Secretary of Agriculture to make preliminary examinations and surveys and to prosecute works of improvement for runoff and waterflow retardation and soil erosion prevention on the watersheds of rivers and other waterways.

1941—Act Aug. 18, 1941, reenacted without change portion of section preceding semicolon.

1938—Act June 28, 1938, reenacted without change portion of section preceding semicolon.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

SAVINGS PROVISIONS

Section 7 of act Aug. 4, 1954, which amended this section by repealing provisions relating to the Department of Agriculture, provides in part that: "(a) the authority of that Department of Agriculture, under the direction of the Secretary, to prosecute the works of improvement for runoff and waterflow retardation and soil erosion prevention authorized to be carried out by the Department by the act of December 22, 1944 (58 Stat. 887), as amended [section 701a-1 of this title], and (b) the authority of the Secretary of Agriculture to undertake emergency measures for runoff retardation and soil erosion prevention authorized to be carried out by section 7 of the act of June 28, 1938 (52 Stat. 1215), as amended by section 216 of the act of May 17, 1950 (64 Stat. 163) [section 701b-1 of this title], shall not be affected by the provisions of this section."

CROSS REFERENCES

River, harbor, and other waterways, supervision of, see section 540 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 701b-1, 701b-2, 701b-4, 701b-6, 701b-7, 701c-1, 701e, 701f-1, 701j, 702a-12 of this title.

§ 701b-1. Transfer of jurisdiction in certain cases to Department of Agriculture

In order to effectuate the policy declared in sections 701a and 701b of this title, and to correlate the program for the improvement of rivers and other waterways by the Department of the Army with the program for the improvement of watersheds by the Department of Agriculture, works of improvement for measures of run-off and water-flow retardation and soil-erosion prevention on the watersheds of waterways, for which works of improvement for the benefit of navigation and the control of destructive floodwaters and other provisions have been adopted and authorized to be prosecuted under the direction of the Secretary of the Army and supervision of the Chief of Engineers, are authorized to be prosecuted by the Department of Agriculture under the direction of the Secretary of Agriculture and in accordance with plans approved by him. The Secretary of Agriculture is authorized in his discretion to undertake such emergency measures for run-off retardation and soil-erosion prevention as may be needed to safeguard lives and property from floods and the products of erosion on any watershed whenever fire or any other natural element or force has caused a sudden impairment of that watershed: *Provided*, That not to exceed $300,000 out of any funds heretofore or hereafter appropriated for the prosecution by the Secretary of Agriculture of works of improvement or measures for run-off and waterflow retardation and soil-erosion prevention on watersheds may be expended during any one fiscal year for such emergency measures. For prosecuting said work and measures there is authorized to be appropriated the sum of

$10,000,000 to be expended at the rate of $2,000,000 per annum during the five-year period ending June 30, 1944: *Provided*, That such works and measures which are herein authorized to be prosecuted by the Department of Agriculture may be carried out on the watersheds of the Rio Grande and Pecos Rivers subject to the proviso in section 701b of this title.

(June 28, 1938, ch. 795, § 7, 52 Stat. 1225; Dec. 22, 1944, ch. 665, § 15, 58 Stat. 907; May 17, 1950, ch. 188, title II, § 216, 64 Stat. 184.)

AMENDMENTS

1950—Act May 17, 1950, in second sentence, increased from $100,000 to $300,000 the limitation on the amount that may be expended in any locality in any one year.

1944—Act Dec. 22, 1944, added provisions authorizing Secretary of Agriculture to undertake emergency work and limiting amount of annual expenditures for such work.

CHANGE OF NAME

The Department of War was designated the Department of the Army, and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces", which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

SAVINGS PROVISIONS

Authority of Secretary of Agriculture under this section as unaffected by repeal of Secretary's authority under section 701b of this title, see section 7 of act Aug. 4, 1954, set out as a Savings Provision note under section 701b of this title

SECTION AS UNAFFECTED BY SUBMERGED LANDS ACT

Provisions of this section as not amended, modified or repealed by the Submerged Lands Act, see section 1303 of Title 43, Public Lands.

CROSS REFERENCES

Additional appropriation, see note under section 701f–1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 701b–4, 701c–1, 701f–1, 701j of this title.

§ 701b–2. Cooperation by Secretaries of Army and Agriculture; expenditures

In carrying out the purposes of the Act of June 22, 1936 (49 Stat. 1570), as amended and supplemented, the Secretary of the Army and the Secretary of Agriculture are authorized to cooperate with institutions, organizations, and individuals, and to utilize the services of Federal, State, and other public agencies, and to pay by check to the cooperating public agency, either in advance or upon the furnishing or performance of said services, all or part of the estimated or actual cost thereof; and to make expenditures for personal services and rent in the District of Columbia and elsewhere, for purchase of reference and law books and periodicals, for printing and binding, for the purchase, exchange, operation, and maintenance of motor-propelled passenger-carrying vehicles and motorboats for official use, and for other necessary expenses. The provisions of this section shall be applicable to any funds heretofore appropriated for the prosecution by the Secretary of Agriculture of works of improvement for measures of run-off and water-flow retardation and soil-erosion prevention upon watersheds.

(June 28, 1938, ch. 795, § 5, 52 Stat. 1223; Aug. 18, 1941, ch. 377, § 8, 55 Stat. 650.)

REFERENCES IN TEXT

The Act of June 22, 1936 (49 Stat. 1570), as amended and supplemented, referred to in text is act June 22, 1936, ch. 688, 49 Stat. 1570, popularly known as the Flood Control Act of June 22, 1936, which to the extent classified to the Code enacted sections 701a, 701b, 701c, 701d to 701f, and 701h of this title. For complete classification of this Act to the Code, see Tables volume.

AMENDMENTS

1941—Act Aug. 18, 1941, changed the reference near the beginning of this section, and added the last sentence to the section.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

TRANSFER OF FUNCTIONS

All functions of all officers, agencies and employees of the Department of Agriculture were transferred, with certain exceptions, to the Secretary of Agriculture by Reorg. Plan No. 2 of 1953, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 701b–4, 701c–1, 701f–1, 701j, 702a–12 of this title.

§ 701b–3. Examinations and surveys; availability of appropriations

Funds heretofore or hereafter appropriated for construction and maintenance of flood-control works by the Department of the Army shall be available for expenditure by the Department of the Army in making examinations and surveys for flood control heretofore or hereafter authorized, or in preparing reports in review thereof as authorized by law, in addition to funds heretofore authorized to be expended for such purposes by the Department of the Army.

(Aug. 11, 1939, ch. 699, § 2, 53 Stat. 1414.)

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces", which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

CROSS REFERENCES

Discontinuance of preliminary examination reports, see section 701b-8a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 701b-4 of this title.

§ 701b-4. Administration of surveys; number authorized; reports

The surveys authorized to be performed under the direction of the Secretary of the Army as well as all duties performed by the Chief of Engineers under the direction of the Secretary of the Army shall be functions of the Engineer Corps, United States Army, and its head, to be administered under the direction of the Secretary of the Army and the supervision of the Chief of Engineers except as otherwise specifically provided by Congress: *Provided,* That the power and authority conferred by the Flood Control Act of June 28, 1938, and previously conferred, upon the Federal Power Commission shall remain in full force and effect: *Provided,* That no preliminary examination, survey, project, or estimate for new works other than those designated in this Act or some prior Act or joint resolution shall be made: *Provided further,* That after the regular or formal reports made as required by law on any examination, survey, project, or work under way or proposed, are submitted, no supplemental or additional report or estimate shall be made unless authorized by law.

(Aug. 11, 1939, ch. 699, § 6, 53 Stat. 1415.)

REFERENCES IN TEXT

The Flood Control Act of June 28, 1938, referred to in text, is act June 28, 1938, ch. 795, 52 Stat. 1215, which to the extent classified to the Code is classified to sections 701b, 701b-1, 701b-2, 701c-1, 701f-1, 701i, 701j, 702a-1½, 702a-11, and 706 of this title. For complete classification of this Act to the Code, see Tables volume.

This Act, referred to in text, is act Aug. 11, 1939, ch. 699, 53 Stat. 1414, which to the extent classified to the Code enacted sections 558b-1, 701b-3, 701b-4, and 707 of this title and amended sections 701c-1 and 701g of this title. For complete classification of this Act to the Code, see Tables volume.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces", which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

TRANSFER OF FUNCTIONS

For transfer of functions of the Federal Power Commission, with certain reservations, to the chairman of such committee, see Reorg. Plan No. 9 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3175, 64 Stat. 1265, set out in the Appendix to Title 5, Government Organization and Employees.

CROSS REFERENCES

Discontinuance of preliminary examination reports, see section 701b-8a of this title.

§ 701b-5. Omitted

CODIFICATION

Section, act Mar. 31, 1945, ch. 45, § 1, 59 Stat. 41, relating to appropriations subject to priority restrictions, was from the War Department Civil Appropriation Act, 1946, and was not repeated in subsequent appropriation acts.

§ 701b-6. Examinations and surveys by Secretary of Agriculture

That, in order to further the declaration of policy and principles declared in sections 701a and 701b of this title, and to supplement the preliminary examinations and surveys which the Secretary of the Army has heretofore been, or is hereafter, authorized and directed to make of waterways with a view to the control of their floods, the Secretary of Agriculture be, and he is, authorized and directed to cause preliminary examinations and surveys to be made for runoff and water-flow retardation and soil-erosion prevention on the watersheds of said waterways, the costs thereof to be paid from appropriations heretofore or hereafter made for such purposes.

(Aug. 28, 1937, ch. 877, § 3, 50 Stat. 877; Jan. 19, 1948, ch. 2, § 1, 62 Stat. 4.)

AMENDMENTS

1948—Act Jan. 19, 1948, inserted "or is hereafter" following "heretofore been" to make section applicable to future preliminary surveys and examinations.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

CROSS REFERENCES

Discontinuance of preliminary examination reports, see section 701b-8a of this title.

§ 701b-7. Supplemental reports to Senate Environment and Public Works Committee and House Public Works Committee

After the Secretary of Agriculture has submitted to Congress a regular or formal report made on any examination or survey, pursuant to the Flood Control Act approved June 22, 1936, as amended and supplemented, a supplemental, additional, or review report or estimate may be made if authorized by law or by resolution of the Committee on Public Works and Transportation of the House of Representatives or the Committee on Environment and Public Works of the Senate.

(Jan. 19, 1948, ch. 2, § 2, 62 Stat. 4; H. Res. 988, Oct. 8, 1974; S. Res. 4, Feb. 4, 1977.)

REFERENCES IN TEXT

The Flood Control Act approved June 22, 1936, as amended and supplemented, referred to in text, is act June 22, 1936, ch. 688, 49 Stat. 1570, which to the extent classified to the Code enacted sections 701a, 701b, 701c, 701d to 701f, and 701h of this title. For

complete classification of this Act to the Code, see Tables volume.

The Committee on Public Works of the House of Representatives was changed to the Committee on Public Works and Transportation of the House of Representatives, effective Jan. 3, 1975, by House Resolution 988, 93d Congress.

The Committee on Public Works of the Senate was abolished and replaced by the Committee on Environment and Public Works of the Senate, effective Feb. 11, 1977. See Rule XXV of the Standing Rules of the Senate, as amended by Senate Resolution 4 (popularly cited as the "Committee System Reorganization Amendments of 1977"), approved Feb. 4, 1977.

CROSS REFERENCES

Discontinuance of preliminary examination reports, see section 701b-8a of this title.

§ 701b-8. Submission of report by Chief of Engineers

It is declared to be the policy of the Congress that the following provisions shall be observed:

No project or any modification not authorized, of a project for flood control or rivers and harbors, shall be authorized by the Congress unless a report for such project or modification has been previously submitted by the Chief of Engineers, United States Army, in conformity with existing law.

(Sept. 3, 1954, ch. 1264, title II, § 202, 68 Stat. 1256.)

CODIFICATION

Section comprises last two paragraphs of section 202 of act Sept. 3, 1954. First paragraph of section 202 is set out as a note under section 701-1 of this title.

SIMILAR PROVISIONS

Similar provisions were contained in the following prior acts:

May 17, 1950, ch. 188, title II, § 202, 64 Stat. 170.
June 30, 1948, ch. 771, title II, § 202, 62 Stat. 1175.
July 24, 1946, ch. 596, § 2, 60 Stat. 641.

CROSS REFERENCES

Discontinuance of preliminary examination reports, see section 701b-8a of this title.

§ 701b-8a. Discontinuance of preliminary examination reports

For preliminary examinations and surveys authorized in previous river and harbor and flood control Acts, the Secretary of the Army is directed to cause investigations and reports for flood control and allied purposes, to be prepared under the supervision of the Chief of Engineers in the form of survey reports, and that preliminary examination reports shall no longer be required to be prepared.

(Pub. L. 85-500, title II, § 208, July 3, 1958, 72 Stat. 319.)

REFERENCES IN TEXT

Previous river and harbor and flood-control Acts, referred to in text, means those acts prior to the River and Harbor Act of 1958 and the Flood Control Act of 1958, titles I and II of Pub. L. 85-500.

§ 701b-9. Availability of appropriations for expenses incident to operation of power boats or vessels; expenses defined; certification of expenditures

On and after July 31, 1947, no appropriation under the Corps of Engineers shall be available for any expenses incident to operating any power-driven boat or vessel on other than Government business, and that Government business shall be construed to include transportation, lodging, and subsistence on inspection trips of Federal and State officials, having a public interest in authorized or proposed improvements for river and harbor and flood control, and any expenses incurred therefor shall be chargeable to river and harbor and flood control appropriations heretofore or hereafter made under rules and regulations to be prescribed by the Chief of Engineers: *Provided*, That such expenditures shall be certified by the Division Engineer as necessary and proper expenditures.

(July 31, 1947, ch. 411, § 1, 61 Stat. 688.)

CODIFICATION

Section is also set out as section 575 of this title.

Section was formerly classified to sections 190a and 199 of Title 10 prior to the general revision and enactment of Title 10, Armed Forces, by act Aug. 10, 1956, ch. 1041, 70A Stat. 1.

§ 701b-10. Revolving fund; establishment; availability; reimbursement; transfer of funds; limitation

There is established a revolving fund, to be available without fiscal year limitation, for expenses necessary for the maintenance and operation of the plant and equipment of the Corps of Engineers used in civil works functions, including acquisition of plant and equipment, maintenance, repair, and purchase, operation, and maintenance of not to exceed four aircraft at any one time, temporary financing of services finally chargeable to appropriations for civil works functions, and the furnishing of facilities and services for military functions of the Department of the Army and other Government agencies and private persons, as authorized by law, $100; and in addition, the Secretary of the Army is authorized to provide capital for the fund by capitalizing the present inventories, plant and equipment of the civil works functions of the Corps of Engineers. The fund shall be credited with reimbursements or advances for the cost of equipment, facilities, and services furnished, at rates which shall include charges for overhead and related expenses, depreciation of plant and equipment, and accrued leave: *Provided*, That on July 1, 1953, (1) the fund shall assume the assets, liabilities, and obligations of the Plant accounts, as carried on the records of the Corps of Engineers as of June 30, 1953, under the appropriations for "Maintenance and improvement of existing river and harbor works", "Flood control, general", and "Flood control, Mississippi River and tributaries", and (2) there shall be transferred from said appropriations to the fund amounts equivalent to the unexpended cash balances of the Plant accounts on June 30, 1953: *Provided further*, That the total capital of said fund shall not exceed $140,000,000.

(July 27, 1953, ch. 245, § 101, 67 Stat. 199.)

CODIFICATION

Section is also set out as section 576 of this title.

Section was formerly classified to section 190b of Title 10 prior to the general revision and enactment of Title 10, Armed Forces, by act Aug. 10, 1956, ch. 1041, 70A Stat. 1.

CROSS REFERENCES

Proceeds of sales of publications, charts, or materials to be credited to revolving fund, see section 557b of this title.

§ 701b-11. Flood protection projects

(a) General considerations; nonstructural alternatives

In the survey, planning, or design by any Federal agency of any project involving flood protection, consideration shall be given to nonstructural alternatives to prevent or reduce flood damages including, but not limited to, floodproofing of structures; flood plain regulation; acquisition of flood plain lands for recreational, fish and wildlife, and other public purposes; and relocation with a view toward formulating the most economically, socially, and environmentally acceptable means of reducing or preventing flood damages.

(b) Non-Federal participation through nonstructural alternatives; limitation

Where a nonstructural alternative is recommended, non-Federal participation shall be comparable to the value of lands, easements, and rights-of-way which would have been required of non-Federal interests under section 701c of this title, for structural protection measures, but in no event shall exceed 20 per centum of the project costs.

(Pub. L. 93-251, title I, § 73, Mar. 7, 1974, 88 Stat. 32.)

§ 701c. Rights-of-way, easements, etc.; acquisition by local authorities; maintenance and operation; protection of United States from liability for damages; requisites to run-off and water-flow retardation and soil erosion prevention assistance

After June 22, 1936, no money appropriated under authority of section 701f of this title shall be expended on the construction of any project until States, political subdivisions thereof, or other responsible local agencies have given assurances satisfactory to the Secretary of the Army that they will (a) provide without cost to the United States all lands, easements, and rights-of-way necessary for the construction of the project, except as otherwise provided herein; (b) hold and save the United States free from damages due to the construction works; (c) maintain and operate all the works after completion in accordance with regulations prescribed by the Secretary of the Army: *Provided*, That the construction of any dam authorized herein, may be undertaken without delay when the dam site has been acquired and the assurances prescribed herein have been furnished, without awaiting the acquisition of the easements and rights-of-way required for the reservoir area: *And provided further*, That whenever expenditures for lands, easements, and rights-of-way by States, political subdivisions thereof, or responsible local agencies for any individual project or useful part thereof shall have exceeded the present estimated construction cost therefor, the local agency concerned may be reimbursed one-half of its excess expenditures over said estimated construction cost: *And provided further*, That when benefits of any project or useful part thereof accrue to lands and property outside of the State in which said project or part thereof is located, the Secretary of the Army with the consent of the State wherein the same are located may acquire the necessary lands, easements, and rights-of-way for said project or part thereof after he has received from the States, political subdivisions thereof, or responsible local agencies benefited the present estimated cost of said lands, easements, and rights-of-way, less one-half the amount by which the estimated cost of these lands, easements, and rights-of-way exceeds the estimated construction cost corresponding thereto: *And provided further*, That the Secretary of the Army shall determine the proportion of the present estimated cost of said lands, easements, and rights-of-way that each State, political subdivision thereof, or responsible local agency should contribute in consideration for the benefits to be received by such agencies: *And provided further*, That whenever not less than 75 per centum of the benefits as estimated by the Secretary of the Army of any project or useful part thereof accrue to lands and property outside of the State in which said project or part thereof is located, provision (c) of this section shall not apply thereto; nothing herein shall impair or abridge the powers now existing in the Department of the Army with respect to navigable streams: *And provided further*, That nothing herein shall be construed to interfere with the completion of any reservoir or flood control work authorized by the Congress and now under way.

(d) As a condition to the extending of any benefits, in prosecuting measures for run-off and water-flow retardation and soil erosion prevention authorized by Act of Congress pursuant to the policy declared in section 701a of this title, to any lands not owned or controlled by the United States or any of its agencies, the Secretary of Agriculture may, insofar as he may deem necessary for the purposes of such Act, require—

(1) The enactment and reasonable safeguards for the enforcement of State and local laws imposing suitable permanent restrictions on the use of such lands and otherwise providing for run-off and waterflow retardation and soil-erosion prevention;

(2) Agreements or covenants as to the permanent use of such lands; and

(3) Contributions in money, services, materials, or otherwise to any operations conferring such benefits.

(June 22, 1936, ch. 688, § 3, 49 Stat. 1571; Aug. 28, 1937, ch. 877, § 4, 50 Stat. 877.)

REFERENCES IN TEXT

Herein, referred to in text, means act June 22, 1936, ch. 688, 49 Stat. 1570, popularly known as the Flood Control Act of June 22, 1936, which to the extent classified to the Code enacted sections 701a, 701b, 701c, 701d to 701f, and 701h of this title. For complete classification of this Act to the Code, see Tables volume. Portions of section 5 of act June 22, 1936, enumerating certain dams to be constructed, were not classified to the Code.

AMENDMENTS

1937—Act Aug. 28, 1937, added paragraph, relating to run-off and water-flow retardation and soil erosion prevention assistance, as subsec. (d), which designation has been retained for purposes of codification and clarity.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

APPLICATION OF SECTION

Act June 28, 1938, ch. 795, § 2, 52 Stat. 1215, provided that this section, as theretofore amended and therein further modified, should apply to all flood control projects, except as otherwise specifically provided by law. For modification of this section by that act, see section 701c-1 of this title.

APPLICABILITY OF SECTION TO FLOOD CONTROL WORKS AUTHORIZED BY FLOOD CONTROL ACTS

Pub. L. 90-483, title II, § 201, Aug. 13, 1968, 82 Stat. 739, provided that: "Section 3 of the Act approved June 22, 1936 (Public Law Numbered 738, Seventy-fourth Congress), [this section], as amended by section 2 of the Act approved June 28, 1938 (Public Law Numbered 761, Seventy-fifth Congress) [section 701c-1 of this title], shall apply to all works authorized in this title except that for any channel improvement or channel rectification project, provisions (a), (b), and (c) of section 3 of said Act of June 22, 1936 [this section], shall apply thereto, except as otherwise provided by law. The authorization for any flood control project herein authorized by this Act [Pub. L. 90-483] requiring local cooperation shall expire five years from the date on which local interests are notified in writing by the Secretary of the Army or his designee of the requirements of local cooperation, unless said interests shall within said time furnish assurances satisfactory to the Secretary of the Army that the required cooperation will be furnished."

Similar provisions were contained in the following prior Acts:

Nov. 7, 1966, Pub. L. 89-789, title II, § 201, 80 Stat. 1418.

Oct. 27, 1965, Pub. L. 89-298, title II, § 202, 79 Stat. 1074.

Sept. 3, 1954, ch. 1264, title II, § 201, 68 Stat. 1256.

May 17, 1950, ch. 188, title II, § 201, 64 Stat. 170.

June 30, 1948, ch. 771, title II, § 201, 62 Stat. 1175.

July 24, 1946, ch. 596, § 2, 60 Stat. 641.

Dec. 22, 1944, ch. 665, § 3, 58 Stat. 889.

MUSKINGUM RIVER VALLEY

Provisions of act June 28, 1938, ch. 795, § 2, 52 Stat. 1215, referred to above, were extended to the Muskingum River Valley dams and reservoirs by section 4 of act Aug. 11, 1939, ch. 699, 53 Stat. 1414.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 701b-2, 701b-7, 701b-11, 701c-1, 701e, 701s of this title.

§ 701c-1. Acquirement of titles for certain projects and to lands, easements, rights-of-way; reimbursement of local agencies

In case of any dam and reservoir project, or channel improvement or channel rectification project for flood control, herein authorized or heretofore authorized by the Act of June 22, 1936, as amended, and sections 642a, 702a, 702a-1, 702a-2 to 702d, 702e to 702h, 702i to 702m, and 704 of this title, title to all lands, easements, and rights-of-way for such project shall be acquired by the United States or by States, political subdivisions thereof or other responsible local agencies and conveyed to the United States, and provisions of clauses (a), (b), and (c) of section 701c of this title shall not apply thereto. Notwithstanding any restrictions, limitations, or requirement of prior consent provided by any other Act, the Secretary of the Army is authorized and directed to acquire in the name of the United States title to all lands, easements, and rights-of-way necessary for any dam and reservoir project or channel improvement or channel rectification project for flood control, with funds heretofore or hereafter appropriated or made available for such projects, and States, political subdivisions thereof, or other responsible local agencies, shall be granted and reimbursed, from such funds, sums equivalent to actual expenditures deemed reasonable by the Secretary of the Army and the Chief of Engineers and made by them in acquiring lands, easements, and rights-of-way for any dam and reservoir project, or any channel improvement or channel rectification project for flood control heretofore or herein authorized: *Provided*, That no reimbursement shall be made for any indirect or speculative damages: *Provided further*, That lands, easements, and rights-of-way shall include lands on which dams, reservoirs, channel improvements, and channel rectifications are located; lands or flowage rights in reservoirs and highway, railway, and utility relocation: *Provided further*, That in all cases of the acquisition hereunder by the United States from the Los Angeles County Flood Control District or the Muskingum Watershed Conservancy District of lands, easements, or rights-of-way, wherein the written opinion of the Attorney General in favor of the validity of the title to such lands, easements, or rights-of-way is or may be required or authorized by law, the Attorney General may, in his discretion, base such opinion upon a certificate of title of the district from which said lands, easements, or rights-of-way are to be acquired accompanied by an agreement, duly executed by the district in conformity with the constitutions and laws of the State where the district in question is situated to indemnify the United States against all claims, liabilities, loss, expenses, and attorneys' fees of whatsoever kind or nature, resulting from or arising out of any defect or defects whatsoever in the title to any such lands, easements, or rights-of-way so conveyed to the United States, including all just compensation, costs, and expenses which may be incurred in any condemnation proceeding deemed necessary and instituted by the United States in order to perfect title to any such lands, easements, or rights-of-way.

(June 28, 1938, ch. 795, § 2, 52 Stat. 1215; Aug. 11, 1939, ch. 699, § 5, 53 Stat. 1415.)

REFERENCES IN TEXT

Herein, referred to in text, means act June 28, 1938, ch. 795, 75 Stat. 1215, popularly known as the Flood Control Act of June 28, 1938, which to the extent classified to the Code enacted sections 701b, 701b-1, 701b-2, 701c-1, 701f-1, 701i, 701j, 702a-1½, 702a-11, and 706 of this title. For complete classification of this Act to the Code, see Tables volume.

The Act of June 22, 1936, referred to in text, is act June 22, 1936, ch. 688, 49 Stat. 1570, popularly known as the Flood Control Act of June 22, 1936, which to the extent classified to the Code enacted sections 701a, 701b, 701c, 701d to 701f, and 701h of this title.

For complete classification of this Act to the Code, see Tables volume.

CODIFICATION

Section comprises last paragraph of section 2 of act June 28, 1938. First paragraph of such section 2 is referred to in note under section 701c of this title.

AMENDMENTS

1939—Act Aug. 11, 1939, added last proviso.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 701b-4, 701f-1, 701j of this title.

§ 701c-2. Acquisition and sale of land

The provisions of sections 593 to 595 of this title relating to river and harbor improvements are made applicable to works of flood control heretofore or hereafter authorized.

(Aug. 18, 1941, ch. 377, § 6, 55 Stat. 650; Oct. 31, 1951, ch. 654, § 3(6), 65 Stat. 708.)

AMENDMENTS

1951—Act Oct. 31, 1951, struck out "558a and" in the reference to other sections.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 702a-12 of this title.

§ 701c-3. Lease receipts; payment of portion to States

75 per centum of all moneys received and deposited in the Treasury of the United States during any fiscal year on account of the leasing of lands acquired by the United States for flood control, navigation, and allied purposes, including the development of hydroelectric power, shall be paid at the end of such year by the Secretary of the Treasury to the State in which such property is situated, to be expended as the State legislature may prescribe for the benefit of public schools and public roads of the county, or counties in which such property is situated, or for defraying any of the expenses of county government in such county or counties, including public obligations of levee and drainage improvements: *Provided*, That when such property is situated in more than one State or county, the distributive share to each from the proceeds of such property shall be proportional to its area therein.

(Aug. 18, 1941, ch. 377, § 7, 55 Stat. 650; July 24, 1946, ch. 596, § 5, 60 Stat. 642; June 16, 1953, ch. 114, 67 Stat. 61; Sept. 3, 1954, ch. 1264, title II, § 206, 68 Stat. 1266.)

AMENDMENTS

1954—Act Sept. 3, 1954, extended the 75 percent rental provision so as also to include moneys received and deposited with respect to the leasing of lands acquired for navigation and allied purposes.

1953—Act June 16, 1953, inserted "or for defraying any of the expenses of county government in such county or counties, including public obligations of levee and drainage districts for flood control and drainage improvements" following "situated".

1946—Act July 24, 1946, increased the percentage return to the States from 25 percent to 75 percent.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 702a-12 of this title.

§ 701d. Compacts between States; consent of Congress

The consent of Congress is given to any two or more States to enter into compacts or agreements in connection with any project or operation authorized by this Act for flood control or the prevention of damage to life or property by reason of floods upon any stream or streams and their tributaries which lie in two or more such States, for the purpose of providing, in such manner and such proportion as may be agreed upon by such States and approved by the Secretary of the Army, funds for construction and maintenance, for the payment of damages, and for the purchase of rights-of-way, lands, and easements in connection with such project or operation. No such compact or agreement shall become effective without the further consent or ratification of Congress, except a compact or agreement which provides that all money to be expended pursuant thereto and all work to be performed thereunder shall be expended and performed by the Department of the Army, with the exception of such reasonable sums as may be reserved by the States entering into the compact or agreement for the purpose of collecting taxes and maintaining the necessary State organizations for carrying out the compact or agreement.

(June 22, 1936, ch. 688, § 4, 49 Stat. 1571.)

REFERENCES IN TEXT

This Act, referred to in text, is act June 22, 1936, ch. 688, 49 Stat. 1570, popularly known as the Flood Control Act of June 22, 1936, which to the extent classified to the Code enacted sections 701a, 701b, 701c, 701d to 701f, and 701h of this title. For complete classification of this Act to the Code, see Tables volume. Portions of section 5 and sections 6 and 7 of act June 22, 1936, enumerating certain projects and operations with regard to flood control, were not classified to the Code.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501, Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces", which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 701b-2, 701b-7, 701c-1, 701e of this title.

§ 701e. Effect of act June 22, 1936, on provisions for Mississippi River and other projects

Nothing in this Act shall be construed as repealing or amending any provision of sections 702a, 702b to 702d, 702e to 702g, 702h, 702i, 702j, 702k, 702*l*, 702m, and 704 of this title. The authority conferred by this Act and any funds appropriated pursuant thereto for expenditure are supplemental to all other authority and appropriations relating to the departments or agencies concerned, and nothing in this Act shall be construed to limit or retard any department or agency in carrying out similar and related activities heretofore or hereafter authorized, or to limit the exercise of powers conferred on any department or agency by other provisions of law is[1] carrying out similar and related activities.

(June 22, 1936, ch. 688, § 8, 49 Stat. 1596.)

REFERENCES IN TEXT

This Act, referred to in text, is act June 22, 1936, ch. 688, 49 Stat. 1570, popularly known as the Flood Control Act of June 22, 1936, which to the extent classified to the Code enacted sections 701a, 701b, 701c, 701d to 701f, and 701h of this title. For complete classification of this Act to the Code, see Tables volume.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 701b-2, 701b-7, 701c-1 of this title.

§ 701f. Authorization of appropriations

The sum of $310,000,000 is authorized to be appropriated for carrying out the improvements herein and the sum of $10,000,000 is authorized to be appropriated and expended in equal amounts by the Departments of the Army and Agriculture for carrying out any examinations and surveys provided for in this Act and other Acts of Congress.

(June 22, 1936, ch. 688, § 9, 49 Stat. 1596.)

REFERENCES IN TEXT

Herein, referred to in text, means act June 22, 1936, ch. 688, 49 Stat. 1570, popularly known as the Flood Control Act of June 22, 1936, which to the extent classified to the Code enacted sections 701a, 701b, 701c, 701d to 701f, and 701h of this title. For complete classification of this Act to the Code, see Tables volume. Portions of section 5 of act June 22, 1936, enumerating certain improvements with regard to flood control were not classified to the Code.

This Act, referred to in text, is act June 22, 1936, ch. 688, 49 Stat. 1570. Sections 6 and 7 of act June 22, 1936, relating to examinations and surveys, were not classified to the Code.

CODIFICATION

The first proviso, relating to a limitation upon the amount of expenditure during the fiscal year 1937, was deleted as executed and obsolete. The second proviso, relating to payment from funds available to the Works Progress Administration, was also omitted as executed and obsolete. The Works Progress Administration was renamed the Work Projects Administration by Reorg. Plan No. 1 of 1939, § 306, eff. July 1, 1939, 4 F.R. 2727, 53 Stat. 1423, set out in the Appendix to Title 5, Government Organization and Employees. Liquidation was ordered by President's letter of December 4, 1942, and appropriations for it authorized by act July 12, 1943, ch. 229, title I, 57 Stat. 540.

[1] So in original. Probably should read "in".

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

ADOPTION OF IMPROVEMENTS

Works of improvement adopted and authorized to be prosecuted are listed in section 5 of act June 22, 1936, ch. 688, § 5, 49 Stat. 1596, referred to in this section, as amended or supplemented by acts Aug. 28, 1937, ch. 877, § 1, 50 Stat. 876; June 28, 1938, ch. 795, § 4, 52 Stat. 1216; Aug. 11, 1939, ch. 699, § 4, 53 Stat. 1414; Aug. 18, 1941, ch. 377, § 3, 55 Stat. 639; Dec. 22, 1944, ch. 665, § 10, 58 Stat. 891; July 24, 1946, ch. 596, § 10, 60 Stat. 643.

AUTHORIZATION OF EXAMINATIONS AND SURVEYS.

Localities at which preliminary examinations and surveys are authorized to be made are listed in acts June 22, 1936, ch. 688, § 6, 49 Stat. 1592; Aug. 28, 1937, ch. 877, § 5, 50 Stat. 877; and June 28, 1938, ch. 795, § 6, 52 Stat. 1223; Aug. 11, 1939, ch. 699, § 6, 53 Stat. 1415; Aug. 18, 1941, ch. 377, § 4, 55 Stat. 648; Dec. 22, 1944, ch. 665, § 11, 58 Stat. 903; July 24, 1946, ch. 596, § 11, 60 Stat. 651.

CONTINUANCE OF EXAMINATIONS AND SURVEYS

Localities at which the continuance of examinations and surveys already undertaken is authorized are listed in act June 22, 1936, ch. 688, § 7, 49 Stat. 1596.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 701b-2, 701b-7, 701c, 701c-1, 701e of this title.

§ 701f-1. Additional authorization

The sum of $375,000,000 is authorized to be appropriated for carrying out the improvements herein over the five-year period ending June 30, 1944, and the sum of $10,000,000 additional is authorized to be appropriated and expended in equal amounts by the Departments of the Army and Agriculture for carrying out any examinations and surveys provided for in said sections and any other Acts of Congress, to be prosecuted by said Departments. The sum of $1,500,000 additional is authorized to be appropriated and expended by the Federal Power Commission for carrying out any examinations and surveys provided for in this Act or any other Acts of Congress, to be prosecuted by the said Federal Power Commission.

(June 28, 1938, ch. 795, § 9, 52 Stat. 1226.)

REFERENCES IN TEXT

"Herein" and "this Act", referred to in text, mean act June 28, 1938, ch. 795, 52 Stat. 1215, popularly known as the Flood Control Act of June 28, 1938, which to the extent classified to the Code enacted sections 701b, 701b-1, 701b-2, 701c-1, 701f-1, 701i, 701j, 702a-1½, 702a-11, and 706 of this title. For complete classification of this Act to the Code, see Tables volume.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat.

501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces", which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

TRANSFER OF FUNCTIONS

For transfer of functions of the Federal Power Commission, with certain reservations, to the chairman of such committee, see Reorg. Plan No. 9 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3175, 64 Stat. 1265, set out in the Appendix to Title 5, Government Organization and Employees.

ADDITIONAL AUTHORIZATION

Sections 15 and 17 of act July 24, 1946, ch. 596, 60 Stat. 653 provided:

"SEC. 15. That the sum of $772,000,000 is hereby authorized to be appropriated for carrying out improvements by the War Department [now Department of the Army], the sum of $10,000,000 additional is authorized to be appropriated and expended in equal amounts by the Departments of War [now Army] and Agriculture for carrying out any examination or survey provided for in this Act and any other Acts of Congress to be prosecuted by said Departments.

"SEC. 17. That the $5,000,000 authorized to be appropriated in section 10 of the Flood Control Act approved August 18, 1941 [set out as a note under this section], is reauthorized to be appropriated, and the sum of $20,000,000 additional is authorized to be appropriated, for expenditure by the Department of Agriculture for the prosecution of the works of improvement authorized to be carried out by that Department by the Flood Control Act of December 22, 1944 [act Dec. 22, 1944, ch. 665, 58 Stat. 887]."

Act Aug. 18, 1941, ch. 377, § 10, 55 Stat. 651, provided as follows: "SEC. 10. That the sum of $275,000,000 is hereby authorized to be appropriated for carrying out the improvements herein, the sum of $10,000,000 additional is authorized to be appropriated and expended in equal amounts by the Departments of War [now Army] and Agriculture for carrying out any examinations and surveys provided for in this Act and any other Acts of Congress to be prosecuted by said departments. There is also hereby authorized to be appropriated for expenditure by the Department of Agriculture in carrying on works of improvement of the character specified in section 7 of the Flood Control Act of June 28, 1938 [section 701b-1 of this title], and which the Department is not otherwise authorized to undertake, such additional sums, not to exceed $5,000,000, as may be necessary for that purpose. All appropriations necessary for operation and maintenance of flood-control works authorized by law to be operated and maintained by the United States are hereby authorized."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 701b-4, 701c-1 of this title.

§ 701f-2. Funds for specific and authorized projects merged with and accounted for under regular annual appropriation

Funds on and after May 17, 1950, appropriated for a specific and heretofore authorized project for a river, harbor, or flood-control works shall be merged with and be accounted for under the regular annual appropriation title applicable to such item.

(May 17, 1950, ch. 188, title II, § 207, 64 Stat. 182.)

§ 701f-3. Expenditure in watersheds of funds appropriated for flood prevention purposes

On and after May 23, 1955, the funds appropriated for flood prevention purposes may be expended in watersheds heretofore authorized by section 13 of the Flood Control Act of December 22, 1944, as amended, for necessary measures for the prevention of erosion, floodwater, and sediment damages, including gully control, floodwater detention, and floodway structures, in areas other than those over which the Department of the Army has jurisdiction and responsibility, and where the Army does have jurisdiction and responsibility, may enter into agreements with the Army to carry out jointly the measures heretofore set out and in areas where the Secretary is authorized to purchase land rights for structural measures, the Secretary in lieu of such acquisition, may reimburse local organizations for such proportionate share of the cost of land rights furnished by local organizations as the Secretary deems equitable in consideration of the national interest.

(May 23, 1955, ch. 43, title I, § 101, 69 Stat. 54; Dec. 22, 1970, Pub. L. 91-566, title I, § 101, 84 Stat. 1484.)

REFERENCES IN TEXT

Section 13 of the Flood Control Act of December 22, 1944, referred to in text, is section 13 of act Dec. 22, 1944, ch. 665, 58 Stat. 905, which was not classified to the Code. Such section 13 authorized the following works of improvement for run-off and waterflow retardation, and soil erosion prevention: Los Angeles River Basin; Santa Ynez River Watershed; Trinity River Basin (Texas); Little Tallahatchie River Watershed; Yazoo River Watershed; Coosa River Watershed (above Rome, Georgia); Little Sioux River Watershed; Potomac River Watershed; Buffalo Creek Watershed (New York); Colorado River Watershed (Texas), and Washita River Watershed.

AMENDMENTS

1970—Pub. L. 91-566 empowered the Secretary, where the Army does have jurisdiction and responsibility, to enter into agreements with the Army to carry out jointly the measures heretofore set out and in areas where the Secretary is authorized to purchase land rights for structural measures, permitted the Secretary in lieu of such acquisition, to reimburse local organizations for such proportionate share of the cost of land rights furnished as the Secretary deems equitable in consideration of the national interest.

§ 701g. Removal of obstructions; clearing channels

The Secretary of the Army is authorized to allot not to exceed $5,000,000 from any appropriations heretofore or hereafter made for any one fiscal year for flood control, for removing accumulated snags and other debris, and clearing and straightening the channel in navigable streams and tributaries thereof, when in the opinion of the Chief of Engineers such work is advisable in the interest of flood control: *Provided*, That not more than $250,000 shall be expended for this purpose for any single tributary from the appropriations for any one fiscal year.

(Aug. 28, 1937, ch. 877, § 2, 50 Stat. 877; Aug. 11, 1939, ch. 699, § 1, 53 Stat. 1414; Aug. 18, 1941, ch. 377, § 9, 55 Stat. 650; July 24, 1946, ch. 596, § 13, 60 Stat. 652; Sept. 3, 1954, ch. 1264, title II,

§ 208, 68 Stat. 1266; Mar. 7, 1974, Pub. L. 93-251, title I, § 26, 88 Stat. 20.)

AMENDMENTS

1974—Pub. L. 93-251 increased the fiscal year authorization from $2,000,000 to $5,000,000 and the single tributary limitation from $100,000 to $250,000.

1954—Act Sept. 3, 1954, increased the fiscal year authorization from $1,000,000 to $2,000,000, and increased the project limitation from $50,000 to $100,000.

1946—Act July 24, 1946, increased the authorization from $500,000 to $1,000,000 and the authorization for a single tributary from $25,000 to $50,000.

1941—Act Aug. 18, 1941, increased the authorization from $300,000 to $500,000.

1939—Act Aug. 11, 1939, authorized Secretary to allot instead of to approve amount for flood control and limited amount allotted instead of expended for any single tributary.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

CROSS REFERENCES

River and harbor improvements, removal of snags and debris, see section 603a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 701b-4, 702a-12 of this title.

§ 701h. Contributions by States and political subdivisions

The Secretary of the Army is authorized to receive from States and political subdivisions thereof, such funds as may be contributed by them to be expended in connection with funds appropriated by the United States for any authorized flood control work whenever such work and expenditure may be considered by the Secretary of the Army, on recommendation of the Chief of Engineers, as advantageous in the public interest, and the plans for any reservoir project may, in the discretion of the Secretary of the Army, on recommendation of the Chief of Engineers, be modified to provide additional storage capacity for domestic water supply or other conservation storage, on condition that the cost of such increased storage capacity is contributed by local agencies and that the local agencies agree to utilize such additional storage capacity in a manner consistent with Federal uses and purposes: *Provided*, That when contributions made by States and political subdivisions thereof, are in excess of the actual cost of the work contemplated and properly chargeable to such contributions, such excess contributions may, with the approval of the Secretary of the Army, be returned to the proper representatives of the contributing interests.

(June 22, 1936, ch. 688, § 5, as added July 19, 1937, ch. 511, § 1, 50 Stat. 518.)

CODIFICATION

Provisions of section 5 of act June 22, 1936, authorizing enumerated works of improvement were not classified to the Code.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces", which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 701b-2, 701b-7, 701c-1, 701e, 701h-1 of this title.

§ 701h-1. Contributions by States and political subdivisions for immediate use on authorized flood-control work; repayment

Whenever any State or political subdivision thereof shall offer to advance funds for a flood-control project duly adopted and authorized by law the Secretary of the Army may in his discretion, receive such funds and expend the same in the immediate prosecution of such work. The Secretary of the Army is authorized and directed to repay without interest, from appropriations which may be provided by Congress for flood-control work, the moneys so contributed and expended: *Provided, however*, That no repayment of funds which may be contributed for the purpose of meeting any conditions of local cooperation imposed by Congress, or under the authority of section 701h of this title, shall be made.

(Oct. 15, 1940, ch. 884, 54 Stat. 1176.)

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces", which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

§ 701i. Elimination from protection of areas subject to evacuation

In any case where the construction cost of levees or flood walls included in any authorized project can be substantially reduced by the evacuation of a portion or all of the area proposed to be protected and by the elimination of that portion or all of the area from the protection to be afforded by the project, the Chief of Engineers may modify the plan of said project so as to eliminate said portion or all of the area: *Provided*, That a sum not substantially exceeding the amount thus saved in construction cost may be expended by the Chief of Engineers, or in his discretion may be transferred to any other appropriate Federal agency for expenditure, toward the evacuation of the locality eliminated from protection and the rehabilitation of the persons so evacuated: *And provided further*, That the Chief of Engineers may, if he

so desires, enter into agreement with States, local agencies, or the individuals concerned for the accomplishment by them, of such evacuation and rehabilitation and for their reimbursement from said sum for expenditures actually incurred by them for this purpose.

(June 28, 1938, ch. 795, § 3, 52 Stat. 1216.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 701b–4, 701c–1, 701f–1, 701j of this title.

§ 701j. Installation in dams of facilities for future development of hydro-electric power

Penstocks or other similar facilities adapted to possible future use in the development of hydroelectric power shall be installed in any dam herein authorized when approved by the Secretary of the Army upon the recommendation of the Chief of Engineers and of the Federal Power Commission.

(June 28, 1938, ch. 795, § 4, 52 Stat. 1216.)

REFERENCES IN TEXT

Herein, referred to in text, means act June 28, 1938, ch. 795, 52 Stat. 1215, popularly known as the Flood Control Act of June 28, 1938, which to the extent classified to the Code enacted sections 701b, 701b–1, 701b–2, 701c–1, 701f–1, 701i, 701j, 702a–1½, 702a–11, and 706 of this title. For complete classification of this Act to the Code, see Tables volume.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces", which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

TRANSFER OF FUNCTIONS

For transfer of functions of the Federal Power Commission, with certain reservations, to the chairman of such committee, see Reorg. Plan No. 9 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3175, 64 Stat. 1265, set out in the Appendix to Title 5, Government Organization and Employees.

SIMILAR PROVISIONS

Similar provisions with reference to dams authorized in such acts were contained in acts Aug. 18, 1941, ch. 377, § 3, 55 Stat. 639; Dec. 22, 1944, ch. 665, § 10, 58 Stat. 891; July 24, 1946, ch. 596, § 10, 60 Stat. 643.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 701b–4, 701c–1, 701f–1 of this title.

§ 701k. Crediting reimbursements for lost, stolen, or damaged property

Any amounts collected from any person, persons, or corporations as a reimbursement for lost, stolen, or damaged property, purchased in connection with river and harbor or flood control work prosecuted under the direction of the Secretary of the Army and the supervision of the Chief of Engineers, whether collected in cash or by deduction from amounts otherwise due such person, persons, or corporations, on and after June 20, 1938, shall be credited in each case to the appropriation that bore the cost of purchase, repair, or replacement of the lost, stolen, or damaged property.

(June 20, 1938, ch. 535, § 4. 52 Stat. 805.)

CODIFICATION

Section is also set out as section 571 of this title.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces", which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

§§ 701*l*, 701*l*–1. Repealed. Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 650, 656

Section 701*l*, act June 20, 1938, ch. 535, § 5, 52 Stat. 805, related to employment of retired civil service employees.

Section 701*l*–1, act May 17, 1950, ch. 188, title II, § 214, 64 Stat. 184, provided that section 947 of former Title 5, Executive Departments and Government Officers and Employees, should not be construed to prevent employment of additional personnel.

§ 701m. Insufficient Congressional authorization; preparations for and modification of project

In any case where the total authorization for a project heretofore or hereafter authorized by Congress is not sufficient to complete plans that may have been made the Chief of Engineers is authorized in his discretion to plan and make expenditures on preparations for the project, such as the purchase of lands, easements, and rights-of-way; readjustments of roads, railroads, and other utilities; removal of towns, cemeteries, and dwellings from reservoir sites; and the construction of foundations. The Chief of Engineers is also authorized in his discretion to modify the plan for any dam or other work heretofore or hereafter authorized so that such dam or work will be smaller than originally planned with a view to completing a useful improvement within an authorization: *Provided*, That the smaller structure shall be located on the chosen site so that it will be feasible at some future time to enlarge the work in order to permit the full utilization of the site for all purposes of conservation such as flood control, navigation, reclamation, the development of hydroelectric power, and the abatement of pollution.

(Aug. 18, 1941, ch. 377, § 2, 55 Stat. 638.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 702a–12 of this title.

§ 701n. Flood emergency preparation; authorized expenditures

There is authorized an emergency fund to be expended in flood emergency preparation, in flood fighting and rescue operations, or in the repair or restoration of any flood control work threatened or destroyed by flood, including the strengthening, raising, extending, or other modification thereof as may be necessary in the

discretion of the Chief of Engineers for the adequate functioning of the work for flood control; in the emergency protection of federally authorized hurricane or shore protection being threatened when in the discretion of the Chief of Engineers such protection is warranted to protect against imminent and substantial loss to life and property; in the repair and restoration of any federally authorized hurricane or shore protective structure damaged or destroyed by wind, wave, or water action of other than an ordinary nature when in the discretion of the Chief of Engineers such repair and restoration is warranted for the adequate functioning of the structure for hurricane or shore protection. The Chief of Engineers, in the exercise of his discretion, is further authorized to provide emergency supplies of clean drinking water, on such terms as he determines to be advisable, to any locality which he finds is confronted with a source of contaminated drinking water causing or likely to cause a substantial threat to the public health and welfare of the inhabitants of the locality. The appropriation of such moneys for the initial establishment of this fund and for its replenishment on an annual basis, is authorized: *Provided*, That pending the appropriation of sums to such emergency fund, the Secretary of the Army may allot, from existing flood-control appropriations, such sums as may be necessary for the immediate prosecution of the work herein authorized, such appropriations to be reimbursed from the appropriation herein authorized when made. The Chief of Engineers is authorized, in the prosecution of work in connection with rescue operations, or in conducting other flood emergency work, to acquire on a rental basis such motor vehicles, including passenger cars and buses, as in his discretion are deemed necessary.

(Aug. 18, 1941, ch. 377, § 5, 55 Stat. 650; July 24, 1946, ch. 596, § 12, 60 Stat. 652; June 30, 1948, ch. 771, title II, § 206, 62 Stat. 1182; May 17, 1950, ch. 188, title II, § 210, 64 Stat. 183; June 28, 1955, ch. 194, 69 Stat. 186; Oct. 23, 1962, Pub. L. 87-874, title II, § 206, 76 Stat. 1194; Mar. 7, 1974, Pub. L. 93-251, title I, 88 Stat. 34.)

AMENDMENTS

1974—Pub. L. 93-251 deleted limitation of emergency fund to $15,000,000, provided for emergency supplies of clean drinking water to localities confronted with source of contaminated drinking water, and substituted in the proviso "of sums to such emergency fund" for "of said sum".

1962—Pub. L. 87-874 authorized expenditures from the emergency fund for the protection of federally authorized hurricane or shore protection being threatened when such is warranted to protect against imminent and substantial loss to life and property, and for the repair and restoration of any such federally authorized hurricane or shore protective structure damaged or destroyed by wind or water action of an extraordinary nature when such is warranted for the adequate functioning of the structure for hurricane or shore protection.

1955—Act June 28, 1955, authorized expenditure for flood emergency preparation and eliminated the requirement of maintenance of flood control works threatened by flood.

1950—Act May 17, 1950, expanded scope of work considered under emergency repairs to flood-control structures, and increased the appropriation from $2,000,000 to $15,000,000.

1948—Act June 30, 1948, added provisions relating to the strengthening, extending, or modification of flood-control works.

1946—Act July 24, 1946, increased authorization from $1,000,000 to $2,000,000.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

CROSS REFERENCES

Mississippi River projects, see section 702g of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 702a-12 of this title.

§ 701o. Omitted

CODIFICATION

Section, act June 30, 1948, ch. 771, title II, § 202, 62 Stat. 1175, related to conditions precedent on unauthorized projects and modifications, and is now covered by section 701b-8 of this title.

§ 701p. Railroad bridge alterations at Federal expense

On and after July 24, 1946, for authorized flood protection projects which include alterations of railroad bridges the Chief of Engineers is authorized to include at Federal expense the necessary alterations of railroad bridges and approaches in connection therewith.

(July 24, 1946, ch. 596, § 3, 60 Stat. 642.)

§ 701q. Repair and protection of highways, railroads, and utilities damaged by operation of dams or reservoir

Whenever the Chief of Engineers shall find that any highway, railway, or utility has been or is being damaged or destroyed by reason of the operation of any dam or reservoir project under the control of the Department of the Army, he may utilize any funds available for the construction, maintenance, or operation of the project involved for the repair, relocation, restoration, or protection of such highway, railway, or utility: *Provided*, That this section shall not apply to highways, railways, and utilities previously provided for by the Department of the Army, unless the Chief of Engineers determines that the actual damage has or will exceed that for which provision had previously been made.

(July 24, 1946, ch. 596, § 9, 60 Stat. 643.)

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 contin-

ued the Department of the Army under the administrative supervision of a Secretary of the Army.

§ 701r. Protection of highways, bridge approaches, public works, and nonprofit public services

The Secretary of the Army is authorized to allot from any appropriations heretofore or hereafter made for flood control, not to exceed $10,000,000 per year, for the construction, repair, restoration, and modification of emergency streambank and shoreline protection works to prevent damage to highways, bridge approaches, and public works, churches, hospitals, schools, and other nonprofit public services, when in the opinion of the Chief of Engineers such work is advisable: *Provided*, That not more than $250,000 shall be allotted for this purpose at any single locality from the appropriations for any one fiscal year.

(July 24, 1946, ch. 596, § 14, 60 Stat. 653; Mar. 7, 1974, Pub. L. 93-251, title I, § 27, 88 Stat. 20.)

Amendments

1974—Pub. L. 93-251 increased annual allotment authorization to $10,000,000 from $1,000,000 and limitation of any single locality to $250,000 from $50,000 and substituted "construction, repair, restoration, and modification of emergency streambank and shoreline protection works to prevent flood damages to highways, bridge approaches, and public works, churches, hospitals, schools, and other nonprofit public services," for "construction of emergency bank-protection works to prevent flood damages to highways, bridge approaches, and public works,".

Change of Name

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

§ 701r-1. Utilization of public roads

(a) Definitions

When used in this section—

(1) The term "Agency" means the Corps of Engineers, United States Army or the Bureau of Reclamation, United States Department of the Interior, whichever has jurisdiction over the project concerned.

(2) The term "head of the Agency concerned" means the Chief of Engineers or the Commissioner, Bureau of Reclamation, or their respective designees.

(3) The term "water resources projects to be constructed in the future" includes all projects not yet actually under construction, and, to the extent of work remaining to be completed, includes projects presently under construction where road relocations or identifiable components thereof are not complete as of the date of this section.

(4) The term "time of the taking" is the date of the relocation agreement, the date of the filing of a condemnation proceeding, or a date agreed upon between the parties as the date of taking.

(b) Improvement, reconstruction, and maintenance

Whenever, in connection with the construction of any authorized flood control, navigation, irrigation, or multiple purpose project for the development of water resources, the head of the Agency concerned determines it to be in the public interest to utilize existing public roads as a means of providing access to such projects during construction, such Agency may improve, reconstruct, and maintain such roads and may contract with the local authority having jurisdiction over the roads to accomplish the necessary work. The accomplishment of such work of improvement may be carried out with or without obtaining any interest in the land on which the road is located in accordance with mutual agreement between the parties: *Provided*, (1) That the head of the Agency concerned determines that such work would result in a saving in Federal cost as opposed to the cost of providing a new access road at Federal expense, (2) that, at the completion of construction, the head of the Agency concerned will, if necessary, restore the road to at least as good condition as prior to the beginning of utilization for access during construction, and (3) that, at the completion of construction, the responsibility of the Agency for improvement, reconstruction, and maintenance shall cease.

(c) Replacement roads; construction to higher standards

For water resources projects to be constructed in the future, when the taking by the Federal Government of an existing public road necessitates replacement, the substitute provided will, as nearly as practicable, serve in the same manner and reasonably as well as the existing road. The head of the agency concerned is authorized to construct such substitute roads to the design standards which the State or owning political division would use in constructing a new road under similar conditions of geography and under similar traffic loads (present and projected). In any case where a State or political subdivision thereof requests that such a substitute road be constructed to a higher standard than that provided for in the preceding provisions of this subsection, and pays, prior to commencement of such construction, the additional costs involved due to such higher standard, such agency head is authorized to construct such road to such higher standard. Federal costs under the provisions of this subsection shall be part of the nonreimbursable project costs.

(Pub. L. 86-645, title II, § 207, July 14, 1960, 74 Stat. 500; Pub. L. 87-874, title II, § 208, Oct. 23, 1962, 76 Stat. 1196; Pub. L. 93-251, title I, § 13, Mar. 7, 1974, 88 Stat. 17.)

Amendments

1974—Subsec. (c). Pub. L. 93-251 lower cased the word "agency" in two instances, and substituted "to the design standards which the State or owning political division would use in constructing a new road under similar conditions of geography and under similar traffic loads (present and projected)." for "to design standards comparable to those of the State, or, where applicable State standards do not exist, those of the owning political division in which the road is located, for roads of the same classification as the road being replaced. The traffic existing at the time of the

taking shall be used in the determination of the classification."

1962—Subsec. (a). Pub. L. 87-874 added subsec. (a). Former subsec. (a) redesignated (b).

Subsec. (b). Pub. L. 87-874 redesignated former subsec. (a) as (b), and among other changes, inserted "irrigation," preceding "or multiple-purpose project" and substituted references to the head of the Agency concerned, for references to the Chief of Engineers. Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 87-874 redesignated former subsec. (b) as (c), substituted construction authority to the head of the agency concerned for authority to the Chief of Engineers, provided that where State standards do not exist, those of the owning political division in which the road is located shall be used, that where a State or political subdivision requests a substitute road to be constructed to a higher standard than provided in this subsection, and pays the additional costs, the Agency head is authorized to so construct the road, and that the Federal costs under this subsection shall be part of the nonreimbursable costs.

§ 701a. Small flood control projects; appropriations; amount limitation for single locality; conditions

The Secretary of the Army is authorized to allot from any appropriations heretofore or hereafter made for flood control, not to exceed $30,000,000 for any one fiscal year, for the construction of small projects for flood control and related purposes not specifically authorized by Congress, which come within the provisions of section 701a of this title, when in the opinion of the Chief of Engineers such work is advisable. The amount allotted for a project shall be sufficient to complete Federal participation in the project. Not more than $2,000,000 shall be allotted under this section for a project at any single locality, except that not more than $3,000,000 shall be allotted under this section for a project at a single locality if such project protects an area which has been declared to be a major disaster area pursuant to the Disaster Relief Act of 1966 [42 U.S.C. 1855aa et seq.] or the Disaster Relief Act of 1970 [42 U.S.C. 4401 et seq.] in the five-year period immediately preceding the date the Chief of Engineers deems such work advisable. The provisions of local cooperation specified in section 701c of this title shall apply. The work shall be complete in itself and not commit the United States to any additional improvement to insure its successful operation, except as may result from the normal procedure applying to projects authorized after submission of preliminary examination and survey reports.

(June 30, 1948, ch. 771, title II, § 205, 62 Stat. 1182; May 17, 1950, ch. 188, title II, § 212, 64 Stat. 183; July 11, 1956, ch. 558, 70 Stat. 522; Oct. 23, 1962, Pub. L. 87-874, title II, § 205, 76 Stat. 1194; Mar. 7, 1974, Pub. L. 93-251, title I, § 61, 88 Stat. 29; Oct. 22, 1976, Pub. L. 94-587, § 133(b), 90 Stat. 2928.)

References in Text

The Disaster Relief Act of 1966, referred to in text, is Pub. L. 89-769, Nov. 6, 1966, 80 Stat. 1316, which was classified principally to subchapter II (§ 1855aa et seq.) of chapter 15 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Tables volume.

The Disaster Relief Act of 1970, referred to in text, is Pub. L. 91-606, Dec. 31, 1970, 84 Stat. 1744, which was classified principally to chapter 58 (§ 4401 et seq.) of Title 42, The Public Health and Welfare. The 1970 act was repealed in part by the Disaster Relief Act of 1974, Pub. L. 93-288, § 603, May 22, 1974, 88 Stat. 164 which is classified principally to chapter 68 (§ 5121 et seq.) of Title 42. Section 602(m) of the Disaster Relief Act of 1974 provided that a reference in any other law to repealed provisions of the Disaster Relief Act of 1970 shall be deemed to be a reference to the appropriate provision of the 1974 Act.

Amendments

1976—Pub. L. 94-587 increased limitation on allotment for a project at a single locality from $1,000,000 to $2,000,000 and for such a project protecting a major disaster area from $2,000,000 to $3,000,000.

1974—Pub. L. 93-251, in revising the provisions, increased fiscal year allotment to $30,000,000 from $25,000,000 and required allotment of $2,000,000 for a project at a single locality if such locality protects an area declared to be a major-disaster area pursuant to Disaster Relief Act of 1966 or Disaster Relief Act of 1970 in five-year period immediately preceding the date the Chief of Engineers deems such work advisable.

1962—Pub. L. 87-874 substituted "$25,000,000" for "$10,000,000", "projects for flood control and related purposes" for "flood control projects", and provisions limiting the allotment for a single project to $1,000,000 and providing that such allotment shall be sufficient to complete Federal participation, for provisions limiting the allotment for any single project to $400,000 from the appropriations for any fiscal year.

1956—Act July 11, 1956, substituted "$10,000,000" for "$3,000,000", deleted the words "and not within areas intended to be protected by projects so authorized" which preceded the words "which come within the provisions of section 701a of this title", and substituted "$400,000" for "$150,000".

1950—Act May 17, 1950, increased the appropriation from $2,000,000 to $3,000,000 for any one fiscal year, and increased limitation on allocation to any single locality from $100,000 to $150,000.

Application of Amendments Made by Section 133 of the Water Resources Development Act of 1976

Amendment by Pub. L. 94-587 inapplicable to any project under contract for construction on Oct. 22, 1976, see section 133(c) of Pub. L. 94-587, set out as a note under section 577 of this title.

§ 701t. Emergency fund for flood damage; amount; commitments to be fulfilled by local interests

The sum of $25,000,000 is authorized to be appropriated as an emergency fund to be expended under the direction of the Secretary of the Army and the supervision of the Chief of Engineers for the repair, restoration, and strengthening of levees and other flood control works which have been threatened or destroyed by recent floods, or which may be threatened or destroyed by later floods, including the raising, extending, or other modification of such works as may be necessary in the discretion of the Chief of Engineers for the adequate functioning of the works for flood control: *Provided,* That local interests shall provide without cost to the United States all lands, easements, and rights of way necessary for the work and shall maintain and operate all the works after completion in a manner satisfactory to the Chief of Engineers: *Provided further,* That pending the appropriation of said sum, the Secretary of the Army may allot from existing flood-control appropriations such sums as may be necessary for the immediate prosecution of the work authorized by this section, such appropriations to be reimbursed from said emergency fund when appropriated: *And provided further,* That funds

allotted under this authority shall not be diverted from the unobligated funds from the appropriation "Flood control, general", made available in War Department Civil Functions Appropriation Acts for specific purposes.

(June 30, 1948, ch. 771, title II, § 208, 62 Stat. 1182.)

§ 701u. International engineering or scientific conferences; attendance

The Secretary of the Army is authorized to allot from any appropriations heretofore or hereafter made for flood control or rivers and harbors, funds for payment of expenses of representatives of the Corps of Engineers engaged on flood control and river and harbor work to international engineering or scientific conferences to be held outside the continental limits of the United States: *Provided*, That not more than ten representatives of the Corps of Engineers shall attend any one conference: *And provided further*, That not more than $25,000 shall be allotted during any one fiscal year for this purpose.

(May 17, 1950, ch. 188, title II, § 211, 64 Stat. 183.)

§ 702. Mississippi River

Authorization of flood-control work—For controlling the floods of the Mississippi River and continuing its improvement from the Head of the Passes to the mouth of the Ohio River the Secretary of the Army is empowered, authorized, and directed to carry on continuously, by hired labor or otherwise, the plans of the Mississippi River Commission, prior to March 3, 1923, or thereafter adopted, to be paid for as appropriations may from time to time be made by law.

Allotments for improvement of watercourses connected with Mississippi River—The watercourses connected with the Mississippi River to such extent as may be necessary to exclude the flood waters from the upper limits of any delta basin, together with the Ohio River from its mouth to the mouth of the Cache River, may, in the discretion of said commission, receive allotments for improvements under way March 1, 1917, or thereafter to be undertaken.

Maintenance of levees constructed for flood control—Upon the completion of any levee constructed for flood control under authority of this section, said levee shall be turned over to the levee district protected thereby for maintenance thereafter; but for all other purposes the United States shall retain such control over the same as it may have the right to exercise upon such completion.

(Mar. 1, 1917, ch. 144, § 1, 39 Stat. 948; Mar. 4, 1923, ch. 277, 42 Stat. 1505.)

Codification

Last clause of first paragraph was originally limited to appropriations made for a period of six years beginning July 1, 1924.

The portion of the first paragraph providing "and a sum not to exceed $10,000,000 annually is hereby authorized to be appropriated for that purpose, for a period of six years beginning July 1, 1924" together with the fourth paragraph, relating to expenditures for improvements between Head of Passes and Rock Island, were from act Mar. 4, 1923, which superseded provisions on the same subjects contained in act Mar. 1, 1917, from which the rest of the section was derived, and were omitted from the Code as executed.

Sections 2 and 3 of act Mar. 1, 1917, are set out as sections 703 and 701, respectively, of this title, and section 4 of act Mar. 1, 1917 formerly amended section 643 of this title and is now covered by section 702h of this title.

Change of Name

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

Cross References

Classification as trust funds, appropriation and disbursement of funds contributed for flood control, see section 725s of Title 31, Money and Finance.

§ 702a. Adoption of 1927 project; execution; creation of board; scope of authority; appropriation

The project for the flood control of the Mississippi River in its alluvial valley and for its improvement from the Head of Passes to Cape Girardeau, Missouri, in accordance with the engineering plan set forth and recommended in the report submitted by the Chief of Engineers to the Secretary of the Army dated December 1, 1927, and printed in House Document Numbered 90, Seventieth Congress, first session, is adopted and authorized to be prosecuted under the direction of the Secretary of the Army and the supervision of the Chief of Engineers: *Provided*, That a board to consist of the Chief of Engineers, the president of the Mississippi River Commission, and a civil engineer chosen from civil life to be appointed by the President, by and with the advice and consent of the Senate, whose compensation shall be fixed by the President and be paid out of the appropriations made to carry on this project, is created; and such board is authorized and directed to consider the engineering differences between the adopted project and the plans recommended by the Mississippi River Commission in its special report dated November 28, 1927, and after such study and such further surveys as may be necessary, to recommend to the President such action as it may deem necessary to be taken in respect to such engineering differences and the decision of the President upon all recommendations or questions submitted to him by such board shall be followed in carrying out the project herein adopted. The board shall not have any power or authority in respect to such project except as hereinbefore provided. Such project and the changes therein, if any, shall be executed in accordance with the provisions of section 702h of this title. Such surveys shall be made between Baton Rouge, Louisiana, and Cape Girardeau, Missouri, as the board may deem necessary to enable it to ascertain and determine the best method of securing flood relief in addition to levees, before any flood-control works other than levees and revetments are undertaken on that portion of the river: *Provided*, That all diversion works and outlets

constructed under the provisions of sections 702a, 702b to 702d, 702e to 702g, 702h, 702i, 702j, 702k, 702*l*, 702m and 704 of this title shall be built in a manner and of a character which will fully and amply protect the adjacent lands: *Provided further,* That pending completion of any floodway, spillway, or diversion channel, the areas within the same shall be given the same degree of protection as is afforded by levees on the west side of the river contiguous to the levee at the head of said floodway, but nothing herein shall prevent, postpone, delay, or in anywise interfere with the execution of that part of the project on the east side of the river, including raising, strengthening, and enlarging the levees on the east side of the river. The sum of $325,000,000 is authorized to be appropriated for this purpose.

All unexpended balances of appropriations prior to May 15, 1928, made for prosecuting work of flood control on the Mississippi River in accordance with the provisions of section 702 of this title, are made available for expenditure under the provisions of sections 702a, 702b to 702d, 702e to 702g, 702h, 702i, 702j, 702k, 702*l*, and 702m of this title.

(May 15, 1928, ch. 569, § 1, 45 Stat. 534.)

REFERENCES IN TEXT

"Herein", referred to in text, means act May 15, 1928, ch. 569, 45 Stat. 534, which enacted sections 702a, 702b to 702d, 702e to 702g, 702h, 702i, 702j, 702k, 702*l*, 702m, and 704 of this title. For complete classification of this Act to the Code, see Tables volume.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

ABANDONMENT AND REPEAL OF PROJECTS

For abandonment of Boeuf Floodway and Eudora Floodway as well as Northward Extension and back protection levee extending from head of Eudora Floodway north to Arkansas River and repeal of provisions relating to prosecution of work, see section 702a-12 of this title.

CROSS REFERENCES

Further modifications of project, see sections 702a-1½ and 702a-1¾ of this title.

Modification of project of 1927 and adoption as modified, see section 702a-1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 701c-1, 701e, 702a-1, 702a-1½, 702a-1¾, 702a-2, 702a-11, 702a-12, 702c, 702e, 702f, 702h, 702i, 702j, 702k, 702*l*, 702m, 702n of this title.

§ 702a-1. Modification of project of 1927; adoption

The project for the control of floods of the Mississippi River and its tributaries, adopted by section 702a of this title, is modified in accordance with the recommendations of section 43 of the report submitted by the Chief of Engineers to the Chairman of the Committee on Flood Control, dated February 12, 1935, and printed in House Committee on Flood Control Document Numbered 1, Seventy-fourth Congress, first session, as, in sections 642a, 702a-2 to 702a-12, 702g-1, 702j-1, 702j-2, 702k-1, and 702k-2 of this title, further modified and amended; and as so modified is adopted and authorized and directed to be prosecuted under the direction of the Secretary of the Army and the supervision of the Chief of Engineers.

(June 15, 1936, ch. 548, § 1, 49 Stat. 1508.)

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

CROSS REFERENCES

Further modifications of project, see sections 702a-1½ and 702a-1¾ of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 701c-1, 702a-1½, 702a-1¾, 702a-11, 702a-12, 702j-1, 702k-1, 702k-2 of this title.

§ 702a-1½. Further modification of 1927 project; adoption; appropriation

In accordance with the recommendations of the Chief of Engineers, as set forth in his report of April 6, 1937, and published as Flood Control Committee Document Numbered 1, Seventy-fifth Congress, first session, paragraph 38(b), except subparagraph (1), the project for flood control of the Lower Mississippi River adopted by sections 642a, 702a, 702a-1, 702a-2 to 702d, 702e to 702h, 702i to 702m, and 704 of this title, is modified and, as modified, is adopted, and there is authorized to be appropriated in addition to the sums previously authorized $40,000,000 to be applied for the purposes set forth in said document covering the said recommendations, with the exceptions mentioned, subject to the provisions made in section 702a-11 of this title.

(June 28, 1938, ch. 795, § 4, 52 Stat. 1220.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 701b-4, 701c-1, 701f-1, 701j, 702a-1¾ of this title.

§ 702a-1¾. Further modification; adoption

The project for flood control of the Lower Mississippi River adopted by sections 642a, 702a to 702a-1½, 702a-2 to 702d, and 702e to 702h, 702i to 702m, and 704 of this title is modified and, as modified, is authorized and adopted.

(Aug. 18, 1941, ch. 377, § 3, 55 Stat. 642.)

CROSS REFERENCES

Modification of Lower Mississippi River flood control project by act Aug. 18, 1941, see section 702a-12 of this title.

§ 702a-2. Abandonment of Boeuf Floodway

The Boeuf Floodway, authorized by the provisions adopted in section 702a of this title,

shall be abandoned as soon as the Eudora Floodway, provided for in Flood Control Committee Document Numbered 1, Seventy-fourth Congress, first session, is in operative condition and the back protection levee recommended in said document, extending north from the head of the Eudora Floodway, shall have been constructed.

(June 15, 1936, ch. 548, § 2, 49 Stat. 1509.)

ABANDONMENT AND REPEAL OF PROJECTS

For abandonment of Boeuf Floodway and Eudora Floodway as well as Northward Extension and back protection levee extending from head of Eudora Floodway north to Arkansas River and repeal of provisions relating to prosecution of work, see section 702a-12 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 701c-1, 702a-1, 702a-1½, 702a-1¾, 702a-11, 702j-1, 702k-1, 702k-2 of this title.

§ 702a-3. Levees; raising and enlarging

The levees along the Mississippi River from the head of the Morganza Floodway to the head of the Atchafalaya River and down the east bank of the Atchafalaya River to intersection with the west protection levee of said Morganza Floodway shall be raised and enlarged to 1928 grade and section.

(June 15, 1936, ch. 548, § 3, 49 Stat. 1509.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 701c-1, 702a-1, 702a-1½, 702a-1¾, 702a-4, 702a-11, 702j-1, 702k-1, 702k-2 of this title.

§ 702a-4. Fuse-plug levees

After the Eudora Floodway shall have been constructed and is ready for operation, the fuse-plug levees now at the head of the Boeuf and Tensas Basins shall be constructed to the 1914 grade and the 1928 section. The fuse-plug levees at the head of the Atchafalaya Basin on the west side shall be constructed to the 1914 grade and the 1928 section. The fuse-plug levees at the head of the Atchafalaya Basin on the east side of the Atchafalaya River shall be constructed to the 1914 grade and 1928 section, and, after the Morganza Floodway has been completed, shall be raised to the 1928 grade as provided in section 702a-3 of this title. Thereafter those stretches of said levees which are left as fuse-plug levees shall be reconstructed and maintained as herein provided, subject to the provisions of section 702a-3 of this title. Any funds appropriated under authority of sections 702g-1 and 702k-1 of this title may be expended for this purpose.

(June 15, 1936, ch. 548, § 10, 49 Stat. 1511.)

REFERENCES IN TEXT

"Herein", referred to in text, means act June 15, 1936, ch. 548, 49 Stat. 1508, which enacted sections 642a, 702a-1, 702a-2 to 702a-12, 702g-1, 702j-1, 702j-2, 702k-1, and 702k-2 of this title. For complete classification of this Act to the Code, see Tables volume.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 701c-1, 702a-1, 702a-1½, 702a-1¾, 702a-11, 702j-1, 702k-1, 702k-2 of this title.

§ 702a-5. Back levee north of Eudora Floodway

The back-protection levee north of the Eudora Floodway shall be constructed to the same grade and section as the levees opposite on the east side of the Mississippi River: *Provided,* That this levee extending from the head of the Eudora Floodway north to the Arkansas River shall be so located as to afford adequate space for the passage of flood waters without endangering the levees opposite on the east side of the river and shall be constructed contemporaneously with the construction of the Eudora Floodway; except that, until the Eudora Floodway is in operative condition, there shall be left in this back levee north of the head of the Eudora Floodway openings which shall be sufficient, in the discretion of the Chief of Engineers, to permit the passage of all flood waters to be reasonably contemplated in the event of any break in the riverside fuse-plug levee prior to the time the Eudora Floodway shall be in operative condition.

(June 15, 1936, ch. 548, § 11, 49 Stat. 1511.)

ABANDONMENT AND REPEAL OF PROJECTS

For abandonment of Boeuf Floodway and Eudora Floodway as well as Northward Extension and back protection levee extending from head of Eudora Floodway north to Arkansas River and repeal of provisions relating to prosecution of work, see section 702a-12 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 701c-1, 702a-1, 702a-1½, 702a-1¾, 702a-11, 702j-1, 702k-1, 702k-2 of this title.

§ 702a-6. Drainage necessitated by floodway levees

The United States shall provide the drainage made necessary by the construction of floodway levees included in the modified project.

(June 15, 1936, ch. 548, § 6, 49 Stat. 1510.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 701c-1, 702a-1, 702a-1½, 702a-1¾, 702a-11, 702j-1, 702k-1, 702k-2 of this title.

§ 702a-7. Railroad and highway crossings over floodways

The United States shall construct, at its own cost, one railroad and one highway crossing over the Eudora Floodway and not to exceed three railway and two highway crossings over the Morganza Floodway, and not to exceed one railway crossing (together with suitable physical connections therewith) and one highway crossing over the floodway west of the Atchafalaya River provided for in the modified project: *Provided,* That equitable agreements can be made with the railroad and highway authorities concerned and that the appropriate railroad or highway agencies agree to accept and maintain and operate these crossings without cost to the United States: *Provided further,* That the railroads crossing the Morganza and West Atchafalaya Floodways agree in consideration for the crossings constructed to waive all claims against the Government for any damages that may occur by reason of overflows in the Morganza and West Atchafalaya Floodways: *And provided further,* That other railway

and highway damages shall be adjusted as provided for in section 702a-10 of this title.

(June 15, 1936, ch. 548, § 7, 49 Stat. 1510.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 701c-1, 702a-1, 702a-1½, 702a-1¾, 702a-11, 702j-1, 702k-1, 702k-2 of this title.

§ 702a-8. Additional roads; construction by United States

In addition to the construction by the United States of roads in connection with floodways as heretofore provided, the Federal Government may, in the discretion of the Chief of Engineers, and within the limits of available funds, construct additional roads to afford access to those portions of the levee lines not otherwise accessible.

(June 15, 1936, ch. 548, § 8, 49 Stat. 1510.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 701c-1, 702a-1, 702a-1½, 702a-1¾, 702a-11, 702j-1, 702k-1, 702k-2 of this title.

§ 702a-9. Lands, easements, and rights of way; acquisition by local authorities; reimbursement; protection of United States from liability for damages

No money appropriated under sections 702g-1 and 702k-1 of this title shall be expended on the construction of any reservoir project herein authorized until States, political subdivisions thereof, or other responsible local agencies have given assurances satisfactory to the Secretary of the Army that they will (a) provide without cost to the United States all lands, easements, and rights-of-way necessary for the construction of the project, except as otherwise provided herein; (b) hold and save the United States free from damages due to the construction works; (c) maintain and operate all the works after completion in accordance with regulations prescribed by the Secretary of the Army: *And provided,* That the construction of any dam authorized herein may be undertaken without delay when the dam site has been acquired and the assurances prescribed herein have been furnished, without awaiting the acquisition of the easements and rights-of-way required for the reservoir area: *And provided further,* That whenever expenditures for lands, easements, and rights-of-way by States, political subdivisions thereof, or responsible local agencies for any individual project or useful part thereof shall have exceeded the present estimated construction cost therefor, the local agency concerned may be reimbursed one-half of its excess expenditures over said estimated construction cost: *And provided further,* That when benefits of any project or useful part thereof accrue to lands and property outside of the State in which said project or part thereof is located, the Secretary of the Army may acquire the necessary lands, easements, and rights-of-way for said project or part thereof after he has received from the States, political subdivisions thereof, or responsible local agencies benefited the present estimated cost of said lands, easements, and rights-of-way, less one-half the amount by which the estimated cost of these lands, easements, and rights-of-way exceeds the estimated construction cost corresponding thereto: *And provided further,* That the Secretary of the Army shall determine the proportion of the present estimated cost of said lands, easements, and rights-of-way that each State, political subdivision thereof, or responsible local agency should contribute in consideration for the benefits to be received by such agencies: *And provided further,* That whenever not less than 75 per centum of the benefits as estimated by the Secretary of the Army of any project or useful part thereof accrue to lands and property outside of the State in which said project or part thereof is located, provision (c) of this section shall not apply thereto; nothing herein shall impair or abridge the powers now existing in the Department of the Army with respect to navigable streams: *And provided further,* That nothing herein shall be construed to interfere with the completion of any reservoir or flood control work authorized by the Congress and under way on June 15, 1936.

(June 15, 1936, ch. 548, § 8a, 49 Stat. 1510.)

REFERENCES IN TEXT

"Herein", referred to in text, means act June 15, 1936, ch. 548, 49 Stat. 1508, which enacted sections 642a, 702a-1, 702a-2 to 702a-12, 702g-1, 702j-1, 702j-2, 702k-1, and 702k-2 of this title. For complete classification of this Act to the Code, see Tables volume.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 701c-1, 702a-1, 702a-1½, 702a-1¾, 702a-11, 702j-1, 702k-1, 702k-2 of this title.

§ 702a-10. Flowage rights and rights-of-way; reimbursement of local authorities; highway crossings; use of properties for national forests or wildlife refuges

In order to facilitate the United States in the acquisition of flowage rights and rights-of-way for levee foundations, the Secretary of the Army is authorized to enter into agreements with the States or with local levee districts, boards, commissions, or other agencies for the acquisition and transfer to the United States of such flowage rights and levee rights-of-way, and for the reimbursement of such States or local levee districts, boards, commissions, or other agencies, for the cost thereof at prices previously agreed upon between the Secretary of the Army and the governing authority of such agencies, within the maximum limitations hereinafter prescribed: *Provided,* That no money appropriated under the authority of sections 702g-1 and 702k-1 of this title shall be expended upon the construction of the Eudora Floodway, the Morganza Floodway, the back protection levee extending north from the Eudora Floodway, or the levees extending from

the head of the Morganza Floodway to the head of and down the east bank of the Atchafalaya River to the intersection of said Morganza Floodway until 75 per centum of the value of the flowage rights and rights-of-way for levee foundations, as estimated by the Chief of Engineers, shall have been acquired or options or assurances satisfactory to the Chief of Engineers shall have been obtained for the Eudora Floodway, the Morganza Floodway, and the area lying between said back protection levee and the present front line levees: *Provided further,* That easements required in said areas in connection with roads and other public utilities owned by States or political subdivisions thereof shall be provided without cost to the United States upon the condition, that the United States shall provide suitable crossings, including surfacing of like character, over floodway guide-line levees in said areas for all improved roads now constituting a part of the State highway system, and shall repair all damage done to said highways within the said floodways by the actual use of such floodways for diversion: *Provided further,* That when such portion of said rights as to all of said areas shall have been acquired or obtained and when said easements required in connection with roads and other public utilities owned by States or political subdivisions thereof have been provided as hereinabove set forth, construction of said flood-control works in said areas shall be undertaken according to the engineering recommendations of the Report of the Chief of Engineers dated February 12, 1935 (House Committee on Flood Control Document Numbered 1, Seventy-fourth Congress, first session), and the Secretary of the Army shall cause proceedings to be instituted for the condemnation of the remainder of said rights and easements, as are needed and cannot be secured by agreement, in accordance with section 702d of this title: *Provided further,* That in no event and under no circumstances shall any of the additional money appropriated under the authority of sections 702g-1 and 702k-1 be expended for the acquisition of said 75 per centum of the flowage rights and rights-of-way hereinabove contemplated in excess of $20,000,000: *Provided further,* That the Chief of Engineers is authorized, out of the funds herein authorized to be appropriated, to purchase flowage easements over lands and properties in the floodway west of the Atchafalaya River and lying above the approximate latitude of Krotz Springs: *Provided further,* That none of such easements in said West Atchafalaya Floodway shall be purchased until options covering at least 75 per centum of the total value of such easements as estimated by the Chief of Engineers shall have been obtained at prices deemed reasonable by the Chief of Engineers and not exceeding in the aggregate $2,250,000 for said 75 per centum of said easements with respect to the floodway west of the Atchafalaya River: *Provided further,* That easements required in said West Atchafalaya Floodway in connection with roads and other public utilities owned by States or other political subdivisions shall be provided without cost to the United States upon condition that the United States shall provide suitable crossings, including surfacing of like character, over floodway guide-line levees for all improved roads in said West Atchafalaya Floodway now constituting a part of the State highway system and shall repair all damage done to said highways within said West Atchafalaya Floodway by the actual use of such floodway for diversion: *Provided further,* That no flowage easements shall be paid for by the United States over properties subject to frequent overflow in the Atchafalaya Basin below the approximate latitude of Krotz Springs: *Provided further,* That payment for rights-of-way, easements, and flowage rights acquired under this section, or reimbursement to the States or local interests furnishing them, shall be made as soon as the Chief of Engineers is satisfied that such rights-of-way, easements, or flowage rights have been acquired in conformity with local custom or legal procedure in such matters; and, thereafter, no liability of any kind shall attach to or rest upon the United States for any further damage by reason of diversions or flood waters: *And provided further,* That if the Secretary of Agriculture shall determine to acquire any of the properties within the floodways herein referred to, for national forests, wildlife refuges, or other purposes of his Department, the Secretary of the Army may, upon recommendation by the Chief of Engineers, in lieu of acquiring flowage rights, advance to or reimburse the said Secretary of Agriculture sums equal to those that would otherwise be used for the purchase of easements desired by the Department of the Army and the Secretary of Agriculture is authorized to use these sums for the purpose of acquiring properties in the floodways in question.

(June 15, 1936, ch. 548, § 12, 49 Stat. 1512.)

REFERENCES IN TEXT

"Herein", referred to in text, means act June 15, 1936, ch. 548, 49 Stat. 1508, which enacted sections 642a, 702a-1, 702-2 to 702a-12, 702g-1, 702j-1, 702j-2, 702k-1, and 702k-2 of this title. For complete classification of this Act to the Code, see Tables volume.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 701c-1, 702a-1, 702a-1½, 702a-1¾, 702a-7, 702a-11, 702j-1, 702k-1, 702k-2 of this title.

§ 702a-11. Morganza Floodway; Eudora Floodway

The United States may, within the discretion of the Chief of Engineers, irrespective of other provisions of law, proceed to acquire all easements needed and of the character considered advisable in the Morganza floodway and to construct said Morganza floodway. Said Morganza floodway may, within the discretion of the Chief of Engineers, be modified as to its design and inflow.

The said Morganza floodway may be initiated and constructed without delay; and the United States may, within the discretion of the Chief of Engineers, irrespective of other provisions of law, proceed to the acquisition of flowage rights and flowage easements in the Eudora floodway, and to its construction as authorized by existing law: *Provided*, That the intakes of such Eudora floodway shall include an automatic masonry weir with its sill at such an elevation that it will not be overtopped by stages other than those capable of producing a stage of fifty-one feet or over on the Vicksburg gage: *Provided further*, That a fuseplug levee loop may be constructed behind said sill to prevent flow into the floodway until the predicted flood exceeds the safe capacity of the main river leveed channel, with a free-board of at least three feet, but said fuseplug levee may be artificially breached when in the opinion of the Chief of Engineers such breaching is advisable to insure the safety of the main river controlling levee line: *Provided further*, That the authority to acquire lands, flowage rights, and easements for floodways shall be confined to the floodways proper and to the northward extension of Eudora: *Provided further*, That within the discretion of the Chief of Engineers, the guide line levees of the Eudora floodway may be extended south toward Old River: *Provided further*, That the Chief of Engineers is authorized to construct the said Eudora floodway at such location as he may determine, in the vicinity of Eudora. The United States may, within the discretion of the Chief of Engineers irrespective of other provisions of law, proceed to acquire flowage rights and flowage easements in the northward extension of the Eudora floodway, as authorized by existing law, provided that pending the completion of such northward extension all the Riverside fuseplug levee extending south from the vicinity of Yancopin to the vicinity of Vau Cluse, Arkansas, and so as to connect with the existing levee of 1928 grade and section, shall be reconstructed to the 1914 grade and 1928 section: *Provided further*, That if the back protection levee is constructed prior to the construction of Eudora floodway, it shall be connected with the main Mississippi River levee and subsequently connected with the Eudora floodway when constructed: *Provided further*, That the Chief of Engineers is authorized, in his discretion, to negotiate options, make agreements and offers with respect to lands, flowage rights, easements, and rights-of-way involved, as provided by law, at prices deemed reasonable by him.

The United States, irrespective of other provisions of law, may, within the discretion of the Chief of Engineers, acquire flowage easements over all lands not subject to frequent overflow in the Atchafalaya Basin below the latitude of Krotz Springs.

Said Morganza floodway shall not be operated until the Wax Lake outlet has been put into operative condition.

The fuseplug levees at the head of the Atchafalaya Basin on the east side of the Atchafalaya River shall be reconstructed to the 1928 grade and section.

The United States may, in the discretion of the Chief of Engineers, acquire all flowage rights, flowage easements, rights-of-way for levee foundations, and titles in fee simple as herein provided, either by voluntary acquisition or in accordance with the condemnation proceedings by the Secretary of the Army as provided for in section 702d of this title.

In the event the United States acquires or owns title to any lands in fee simple under the provisions of sections 702a, 702b to 702d, 702e to 702g, 702h, 702i, 702j, 702k, 702*l*, 702m, and 704 of this title, as amended and supplemented, the United States may retain the ownership thereof, or any part thereof instead of turning over such lands to the ownership of States or local interests as provided in section 702d of this title, and may lease such lands: *Provided*, That 25 per centum of all moneys received and deposited in the Treasury of the United States during any fiscal year on account of such leases shall be paid, at the end of such year, by the Secretary of the Treasury to the State in which such property is situated, to be expended as the State legislature may prescribe for the benefit of the public schools and public roads of the county or counties in which such property is situated: *Provided further*, That when such property is situated in more than one State or county the distributive share to each from the proceeds of such property shall be proportional to its area therein: *Provided further*, That no part of the appropriations herein or heretofore authorized for said Morganza and Eudora floodways and extension shall be used for any other purpose.

(June 15, 1936, ch. 548, as added June 28, 1938, ch. 795, § 4, 52 Stat. 1220.)

REFERENCES IN TEXT

"Herein", referred to in text, means act June 15, 1936, ch. 548, 49 Stat. 1508, which enacted sections 642a, 702a-1, 702a-2 to 702a-12, 702g-1, 702j-1, 702j-2, 702k-1, and 702k-2 of this title. For complete classification of this Act to the Code, see Tables volume.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

EFFECT OF AMENDMENT

Act June 28, 1938 provided that, except as amended therein, the act of May 15, 1928, ch. 569, 45 Stat. 534, as amended by the act of June 15, 1936, as amended, should remain in full force and effect. Act May 15, 1928, is classified to sections 702a, 702b to 702d, 702e to 702g, 702h, 702i, 702j, 702k, 702*l*, 702m, and 704 of this title.

ABANDONMENT AND REPEAL OF PROJECTS

For abandonment of Boeuf Floodway and Eudora Floodway as well as Northward Extension and back protection levee extending from head of Eudora Floodway north to Arkansas River and repeal of provisions relating to prosecution of work, see section 702a-12 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 701b-4, 701f-1, 701j, 702a-1, 702a-1¼, 702a-1¾, 702j-1, 702k-1, 702k-2 of this title.

§ 702a-12. Modified Lower Mississippi River project as of August 18, 1941

(a) Alluvial valley, Mississippi River; Yazoo Basin levees; abandonment of Boeuf and Eudora Floodways and Northward Extension

The existing engineering plan for flood control in the alluvial valley of the Mississippi River is modified so as to provide for the construction of plan 4 as set forth in the report of the Mississippi River Commission, dated March 7, 1941, to the Chief of Engineers, except that the levees in the Yazoo Basin on the east bank of the Mississippi River south of the Coahoma-Bolivar County line in said plan shall have a three foot freeboard over the project flood, and all levees shall be constructed with adequate section and foundation to conform to increased levee heights. The Boeuf Floodway in the project adopted by sections 702a, 702b to 702d, 702e to 702g, 702h, 702i, 702j, 702k, 702*l*, 702m, and 704 of this title, and the Eudora Floodway as well as the Northward Extension and the back protection levee extending from the head of the said Eudora Floodway north to the Arkansas River in the project adopted by sections 642a, 702a-1, 702a-2 to 702a-12, 702g-1, 702j-1, 702j-2, 702k-1, and 702k-2 of this title, are abandoned, and the provisions of said sections relating to the prosecution of work on said floodways and extension are repealed.

(b) Yazoo River project

The project for flood control of the Yazoo River shall be as authorized by sections 642a, 702a-1, 702a-2 to 702a-12, 702g-1, 702j-1, 702j-2, 702k-1, and 702k-2 of this title, except that the Chief of Engineers may, in his discretion, from time to time, substitute therefor combinations of reservoirs, levees, and channel improvements; and except that the extension of the authorized project and improvements contemplated in plan C of the report of March 7, 1941, of the Mississippi River Commission are authorized, including the extension of the levee on the east bank of the Mississippi River generally along the west bank of the Yazoo River to a connection in the vicinity of Yazoo City with the Yazoo River levee, authorized by the existing project for protection against headwater floods of the Yazoo River system, and the adjustment in the discretion of the Chief of Engineers of the grades of the existing levees in the backwater area on the east bank of Yazoo River below Yazoo City, all at an estimated additional cost of $11,982,000: *Provided*, That the Chief of Engineers shall fix the grade of the extension levees along the Yazoo River, with higher levees in his discretion, so that their construction will give the maximum practical protection without jeopardizing the safety and integrity of the main Mississippi River levees: *And provided further*, That prior to the beginning of construction local authorities shall furnish satisfactory assurances that they will (1) maintain the levees in accordance with the provisions of section 702c of this title, and will (2) not raise the levees in the backwater above the limiting elevations established therefor by the Chief of Engineers.

(c) Tensas-Cocodrie backwater area

In the development of the authorized project, the construction of a levee and improvements contemplated in the report of March 7, 1941, of the Mississippi River Commission from the main-line levee on the west bank of the Mississippi River in the vicinity of Shaw, Louisiana, westward and northward to the vicinity of Newlight, Louisiana, for the protection of that part of the Red River backwater known as the Tensas-Cocodrie area at an estimated cost of $6,976,000 is authorized: *Provided*, That the Chief of Engineers shall fix the grade of said levee, with a higher levee in his discretion, so that its construction will give the maximum practical protection without jeopardizing the safety and integrity of the main Mississippi River levees: *And provided further*, That prior to the beginning of construction local authorities shall furnish satisfactory assurances that they will (1) maintain the levee in accordance with the provisions of section 702c of this title, and will (2) not raise the said levee above the limiting elevations established therefor by the Chief of Engineers: *Provided further*, That subject to the foregoing conditions of local cooperation the Chief of Engineers may in his discretion substitute other levees and appurtenant works for, or make such modifications of, the levees and improvements herein authorized for the protection of the Tensas-Cocodrie area as may be found after further investigation to afford protection to a larger area in the Red River Backwater at a total cost not to exceed $29,000,000 and without jeopardizing the safety and integrity of the main Mississippi River levees and without preventing or jeopardizing the diversions contemplated in the adopted project through the Atchafalaya River and Atchafalaya Basin.

(d) Reimbursement of local authorities for certain expenses

The Chief of Engineers, with approval of the Secretary of the Army, shall reimburse local authorities for actual expenditures found by the Chief of Engineers to be reasonable, for providing at the request of the United States, in accordance with local legal procedure or custom, rights-of-way and flowage easements required for future setbacks of main-line Mississippi River levees.

(e) Saint Francis River

The existing engineering plan for flood control of the Saint Francis River is modified so as to permit the substitution for the suspended portions of the original project below Oak Donnick, Arkansas, of the construction of a ditch in Cross County, Arkansas, beginning in the vicinity of the outlet end of the existing Oak Donnick to Saint Francis Bay floodway and terminating in Saint Francis Bay about two miles north of Riverfront, including the construction of a highway bridge at State Highway Numbered 42 made necessary by the ditch construction: *Provided*, That local interests give assurances satisfactory to the Secretary of the Army that they will (1) provide without cost to the United States all lands, easements, and rights-of-way necessary for the construction; (2) hold

and save the United States free from damages due to the construction works; and (3) maintain the works after completion in accordance with regulations prescribed by the Secretary of the Army.

(f) Bayou Rapides, Boeuf, and Cocodrie, Louisiana, improvements

In the development of the authorized project, the construction of improvements for Bayou Rapides, Boeuf, and Cocodrie, Louisiana, contemplated in the report dated March 24, 1941, of the Special Board of Officers at an estimated cost of $2,600,000 is authorized.

(g) Increased authorizations for alluvial valley, Mississippi River

The total authorizations heretofore made for the flood control project of the alluvial valley of the Mississippi River shall not be increased by reason of any provision in this Act, except for the additional amounts necessary for the Yazoo and Red River backwater improvements, and any appropriations heretofore or hereafter made or authorized for said project as herein or heretofore modified may be expended upon any feature of the said project, notwithstanding any restrictions, limitations, or requirements of existing law: *Provided,* That funds hereafter expended for maintenance shall not be considered as reducing present remaining balances of authorizations.

(June 15, 1936, ch. 548, as added Aug. 18, 1941, ch. 377, § 3, 55 Stat. 642, and amended May 17, 1950, ch. 188, title II, § 204(a), 64 Stat. 172.)

REFERENCES IN TEXT

"Herein", referred to in subsecs. (c) and (g), and "this Act", referred to in subsec. (g), probably mean act June 15, 1936, ch. 548, 49 Stat. 1508, which enacted sections 642a, 702a-1, 702a-2 to 702a-12, 702g-1, 702j-1, 702j-2, 702k-1, and 702k-2 of this title. For complete classification of this Act to the Code, see Tables volume.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces", which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

AMENDMENTS

1950—Subsec. (c). Act May 17, 1950, substituted "29,000,000" for "$14,000,000".

APPLICATION OF 1950 INCREASE IN AUTHORIZATION CONTAINED IN SUBSEC. (C) TO OLD AND ATCHAFALAYA RIVERS PROJECT

Section 203 of act Sept. 3, 1954, ch. 1264, title II, 68 Stat. 1258, in addition to authorizing an amount of $32,000,000 for control of the Old and Atchafalaya Rivers and a lock for navigation, provided in part that the $15,000,000 increase in authorization by act May 17, 1950 in amending subsec. (c) of this section (see 1950 Amendment note under this section), should be applied to such project.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 701c-1, 702a-1, 702a-1½, 702a-1¾, 702j-1, 702k-1, 702k-2 of this title.

§ 702b. Local contribution toward cost of flood control work

It is declared to be the sense of Congress that the principle of local contribution toward the cost of flood control work, which has been incorporated in all previous national legislation on the subject, is sound, as recognizing the special interest of the local population in its own protection, and as a means of preventing inordinate requests for unjustified items of work having no material national interest. As a full compliance with this principle in view of the great expenditure estimated at approximately $292,000,000, prior to May 15, 1928, made by the local interests in the alluvial valley of the Mississippi River for protection against the floods of that river; in view of the extent of national concern in the control of these floods in the interests of national prosperity, the flow of interstate commerce, and the movement of the United States mails; and, in view of the gigantic scale of the project, involving flood waters of a volume and flowing from a drainage area largely outside the States most affected, and far exceeding those of any other river in the United States, no local contribution to the project herein adopted is required.

(May 15, 1928, ch. 569, § 2, 45 Stat. 535.)

REFERENCES IN TEXT

"Herein", referred to in text, means act May 15, 1928, ch. 569, 45 Stat. 534, which enacted sections 702a, 702b to 702d, 702e to 702g, 702h, 702i, 702j, 702k, 702l, 702m, and 704 of this title. For complete classification of this Act to the Code, see Tables volume.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 701c-1, 701e, 702a, 702a-1½, 702a-1¾, 702a-11, 702c, 702h, 702i, 702j, 702l, 702m, 702n of this title.

§ 702c. Expenditures for construction work; conditions precedent; liability for damage from flood waters; condemnation proceedings; floodage rights

Except when authorized by the Secretary of the Army upon the recommendation of the Chief of Engineers, no money appropriated under authority of sections 702a and 702g of this title shall be expended on the construction of any item of the project until the States or levee districts have given assurances satisfactory to the Secretary of the Army that they will (a) maintain all flood-control works after their completion, except controlling and regulating spillway structures, including special relief levees; maintenance includes normally such matters as cutting grass, removal of weeds, local drainage, and minor repairs of main river levees; (b) agree to accept land turned over to them under the provisions of section 702d of this title; (c) provide without cost to the United States, all rights-of-way for levee foundations and levees on the main stem of the Mississippi River between Cape Girardeau, Missouri, and the Head of Passes.

No liability of any kind shall attach to or rest upon the United States for any damage from or by floods or flood waters at any place: *Provided, however,* That if in carrying out the purposes of sections 702a, 702b to 702d, 702e to 702g, 702h, 702i, 702j, 702k, 702l, 702m, and 704

of this title it shall be found that upon any stretch of the banks of the Mississippi River it is impracticable to construct levees, either because such construction is not economically justified or because such construction would unreasonably restrict the flood channel, and lands in such stretch of the river are subjected to overflow and damage which are not now overflowed or damaged by reason of the construction of levees on the opposite banks of the river it shall be the duty of the Secretary of the Army and the Chief of Engineers to institute proceedings on behalf of the United States Government to acquire either the absolute ownership of the lands so subjected to overflow and damage or floodage rights over such lands.

(May 15, 1928, ch. 569, § 3, 45 Stat. 535.)

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

CROSS REFERENCES

Payment or reimbursement by Secretary of the Army for levee rights-of-way or easements, see section 702n of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 701c-1, 701e, 702a, 702a-1½, 702a-1¾, 702a-11, 702h, 702i, 702j, 702l, 702m, 702n of this title.

§ 702d. Flowage rights; condemnation proceedings; benefits to property

The United States shall provide flowage rights for additional destructive flood waters that will pass by reason of diversions from the main channel of the Mississippi River: *Provided*, That in all cases where the execution of the flood control plan herein adopted results in benefits to property such benefits shall be taken into consideration by way of reducing the amount of compensation to be paid.

The Secretary of the Army may cause proceedings to be instituted for the acquirement by condemnation of any lands, easements, or rights of way which, in the opinion of the Secretary of the Army and the Chief of Engineers, are needed in carrying out this project, the said proceedings to be instituted in the United States district court for the district in which the land, easement, or right of way is located. In all such proceedings the practice, pleadings, forms, and modes of proceedings shall conform as near as may be to the practice, pleadings, forms, and proceedings existing at the time in like causes in the courts of record of the State within which such district court is held, any rule of the court to the contrary notwithstanding. When the owner of any land, easement, or right of way shall fix a price for the same which, in the opinion of the Secretary of the Army is reasonable, he may purchase the same at such price; and the Secretary of the Army is also authorized to accept donations of lands, easements, and rights of way required for this project. The provisions of sections 594 and 595 of this title are made applicable to the acquisition of lands, easements, or rights of way needed for works of flood control: *Provided*, That any land acquired under the provisions of this section shall be turned over without cost to the ownership of States or local interests.

(May 15, 1928, ch. 569, § 4, 45 Stat. 536; Nov. 30, 1945, ch. 496, 59 Stat. 587.)

AMENDMENTS

1945—Act Nov. 30, 1945, substituted second sentence of second par. for a sentence which read "In all such proceedings the court, for the purpose of ascertaining the value of the property and assessing the compensation to be paid, shall appoint three commissioners, whose award, when confirmed by the court, shall be final."

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

CROSS REFERENCES

Lands acquired for construction of Bonnet Carre Spillway and Floodway not to be subject to this section, see section 702d-1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 701c-1, 701e, 702a, 702a-1½, 702a-1¾, 702a-10, 702a-11, 702c, 702d-1, 702h, 702i, 702j, 702l, 702m, 702n of this title.

§ 702d-1. Bonnet Carre Spillway and Floodway; rights-of-way, etc., over lands

The last proviso in section 702d of this title shall not apply to the lands heretofore acquired or that may be hereafter acquired in connection with the construction, maintenance, or operation of the Bonnet Carre Spillway and Floodway. The Secretary of the Army is authorized to grant to any citizen, association, railroad, or other corporation, State or public agency thereof, rights-of-way, easements, and permits, over, across, in, and upon said lands for railway, highway, telephone, telegraph, and pipe-line crossings, and other purposes. The grants issued in pursuance of this authority shall be under such terms and conditions as the Secretary of the Army may deem advisable for the protection of the public interests, and may be perpetual or temporary in his discretion.

(Feb. 15, 1933, ch. 76, 47 Stat. 810.)

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

§ 702e. Maps for project; preparation

Subject to the approval of the heads of the several executive departments concerned, the Secretary of the Army, on the recommendation of the Chief of Engineers, may engage the services and assistance of the National Ocean Survey, the Geological Survey, or other mapping agencies of the Government, in the preparation of maps required in furtherance of this project, and funds to pay for such services may be allotted from appropriations made under authority of sections 702a and 702g of this title.

(May 15, 1928, ch. 569, § 5, 45 Stat. 536.)

Change of Name

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

The Coast and Geodetic Survey was consolidated with the National Weather Bureau in 1965 to form the Environmental Science Services Administration by Reorg. Plan No. 2 of 1965, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318. The Environmental Science Services Administration was abolished in 1970, and its personnel, property, records, etc., were transferred to the National Oceanic and Atmospheric Administration by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090. By order of the Acting Associate Administrator of the National Oceanic and Atmospheric Administration, 35 F.R. 19249, Dec. 19, 1970, the Coast and Geodetic Survey was redesignated the National Ocean Survey. See notes under section 311 of Title 15, Commerce and Trade.

Transfer of Functions

For transfer of functions of other officers, employees, and agencies of the Department of the Interior, with certain exceptions, to the Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees. The Geological Survey, referred to in text, is an agency of the Department of the Interior.

Section Referred to in Other Sections

This section is referred to in sections 701c-1, 701e, 702a, 702a-1½, 702a-1¾, 702a-11, 702c, 702h, 702i, 702j, 702l, 702m, 702n of this title.

§ 702f. Expenditures for earlier projects

Funds appropriated under authority of section 702a of this title may be expended for the prosecution of such works for the control of the floods of the Mississippi River as have, prior to May 15, 1928, been authorized and are not included in the present project, including levee work on the Mississippi River between Rock Island, Illinois, and Cape Girardeau, Missouri, and on the outlets and tributaries of the Mississippi River between Rock Island and Head of Passes insofar as such outlets or tributaries are affected by the backwaters of the Mississippi: *Provided*, That for such work on the Mississippi River between Rock Island, Illinois, and Cape Girardeau, Missouri, and on such tributaries, the States or levee districts shall provide rights-of-way without cost to the United States, contribute 33⅓ per centum of the costs of the works, and maintain them after completion: *And provided further*, That not more than $10,000,000 of the sums authorized in section 702a of this title, shall be expended under the provisions of this section. In an emergency, funds appropriated under authority of section 702a of this title may be expended for the maintenance of any levee when it is demonstrated to the satisfaction of the Secretary of the Army that the levee cannot be adequately maintained by the State or levee district.

(May 15, 1928, ch. 569, § 6, 45 Stat. 536.)

Change of Name

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces", which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

Section Referred to in Other Sections

This section is referred to in sections 701c-1, 701e, 702a, 702a-1½, 702a-1¾, 702a-11, 702c, 702h, 702i, 702j, 702l, 702m, 702n of this title.

§ 702g. Appropriation for emergency fund

The sum of $5,000,000 is authorized to be appropriated as an emergency fund to be allotted by the Secretary of the Army on the recommendation of the Chief of Engineers, in rescue work or in the repair or maintenance of any flood-control work on any tributaries of the Mississippi River threatened or destroyed by flood including the flood of 1927: *Provided*, That the unexpended and unallotted balance of said sum, or so much thereof as may be necessary, may be allotted by the Secretary of the Army on the recommendation of the Chief of Engineers in the reimbursement of levee districts or others for expenditures heretofore incurred or made for the construction, repair, or maintenance of any flood-control work on any tributaries or outlets of the Mississippi River that may be threatened, impaired, or destroyed by the flood of 1927 or subsequent flood or that have been impaired, damaged, or destroyed by flood; and also in the construction, repair, or maintenance, and in the reimbursement of levee districts or others for the construction, repair, or maintenance of any flood-control work on any of the tributaries or outlets of the Mississippi River that have been impaired, damaged, or destroyed by caving banks or that may be threatened or impaired by caving banks of such tributaries, whether or not such caving has taken place during a flood stage: *Provided further*, That if the Chief of Engineers finds that it has been or will be necessary or advisable to change the location of any such flood-control work in order to provide the protection contemplated by this section, such change may be approved and/or authorized.

(May 15, 1928, ch. 569, § 7, 45 Stat. 537; June 19, 1930, ch. 542, 46 Stat. 787.)

Amendments

1930—Act June 19, 1930, added provisos.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

CROSS REFERENCES

Rescue work and repair and maintenance of projects threatened by flood, generally, see section 701n of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 701c-1, 701e, 702a, 702a-1½, 702a-1¾, 702a-11, 702c, 702e, 702h, 702i, 702j, 702l, 702m, 702n of this title.

§ 702g-1. Additional appropriation for emergency fund

The sum of $15,000,000 is authorized to be appropriated as an emergency fund to be allocated by the Secretary of the Army on the recommendation of the Chief of Engineers in rescue work or in the repair or maintenance of any flood-control work on any tributary of the Mississippi River threatened or destroyed by flood heretofore or hereafter occurring: *Provided,* That the unexpended and unallotted balance of said sum, or so much thereof as may be necessary, may be allotted by the Secretary of the Army, on the recommendation of the Chief of Engineers, in the reimbursement of levee districts or others for expenditures incurred or made prior to June 15, 1936 for the construction, repair, or maintenance of any flood-control work on any tributaries or outlets of the Mississippi River that may be threatened, impaired, or destroyed by the flood of 1927 or subsequent flood; and also in the construction, repair, or maintenance, and in the reimbursement of levee districts or others for the construction, repair, or maintenance of any flood-control work on any of the tributaries or outlets of the Mississippi River that may have been impaired, damaged, or destroyed by caving banks or that may be threatened or impaired by caving banks, of such tributaries, whether or not such caving has taken place during a flood stage: *Provided further,* That if the Chief of Engineers finds that it has been or will be necessary or advisable to change the location of any such flood-control work in order to provide the protection contemplated by this section, such change may be approved and authorized.

(June 15, 1936, ch. 548, § 9, 49 Stat. 1511.)

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces", which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 702a-1, 702a-1½, 702a-1¾, 702a-11, 702j-1, 702k-1 of this title.

§ 702h. Prosecution of project by Mississippi River Commission; president of commission; salaries

The project herein authorized shall be prosecuted by the Mississippi River Commission under the direction of the Secretary of the Army and supervision of the Chief of Engineers and subject to the provisions of sections 702a, 702b to 702d, 702e to 702g, 702h, 702i, 702j, 702k, 702l, 702m, and 704 of this title. It shall perform such functions and through such agencies as they shall designate after consultation and discussion with the president of the commission. For all other purposes the existing laws governing the constitution and activities of the commission shall remain unchanged. The commission shall make inspection trips of such frequency and duration as will enable it to acquire first-hand information as to conditions and problems germane to the matter of flood control within the area of its jurisdiction; and on such trips of inspection ample opportunity for hearings and suggestions shall be afforded persons affected by or interested in such problems. The president of the commission shall be the executive officer thereof and shall have the qualifications prescribed by law on May 15, 1928, for the Assistant Chief of Engineers, shall have the title brigadier general, Corps of Engineers, and shall have the rank, pay, and allowances of a brigadier general while actually assigned to such duty: *Provided,* That the incumbent of the office on May 15, 1928, may be appointed a brigadier general of the Army, retired, and shall be eligible for the position of president of the commission if recalled to active service by the President under the provisions of existing law.

The official salary of any officer of the United States Army or other branch of the Government appointed or employed under sections 702a, 702b to 702d, 702e to 702g, 702h, 702i, 702j, 702k, 702l, 702m, and 704 of this title shall be deducted from the amount of salary or compensation provided by, or which shall be fixed under, the terms of such sections.

(May 15, 1928, ch. 569, § 8, 45 Stat. 537.)

REFERENCES IN TEXT

"Herein", referred to in text, means act May 15, 1928, ch. 569, 45 Stat. 534, which enacted sections 702a, 702b to 702d, 702e to 702g, 702h, 702i, 702j, 702k, 702l, 702m, and 704 of this title. For complete classification of this Act to the Code, see Tables volume. The "project herein authorized" was specifically authorized by section 702a of this title.

CODIFICATION

Provisions of the second paragraph that read: "The salary of the president of the Mississippi River Commission shall hereafter be $10,000 per annum, and the salary of the other members of the commission shall hereafter be $7,500 per annum." were omitted as obsolete and superseded by the Classification Act of 1949, 63 Stat. 954, 972. The Classification Act of 1949 was repealed by Pub. L. 89-554, Sept. 6, 1966, § 8(a), 80 Stat. 632, and reenacted as chapter 51 and subchapter III of chapter 53 of Title 5, Government Organization and Employees. Section 5102 of Title 5 now contains the applicability provisions of the 1949 Act, and section 5103 of Title 5 authorizes the Civil Service Commis-

sion to determine the applicability to specific positions and employees.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

CROSS REFERENCES

Retirement rank, pay, and allowances of officer of Corps of Engineers serving 4 years as President of Mississippi River Commission, see section 642a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 701c-1, 701e, 702a, 702a-1½, 702a-1¾, 702a-11, 702c, 702i, 702j, 702m, 702n of this title.

§ 702h-1. Transferred

CODIFICATION

Section has been transferred to section 642a of this title.

§ 702i. Certain sections applicable to property and rights acquired or constructed

The provisions of sections 407, 408, 411, 412, and 413 of this title are made applicable to all lands, waters, easements, and other property and rights acquired or constructed under the provisions of sections 702a, 702b to 702d, 702e to 702g, 702h, 702i, 702j, 702k, 702*l*, 702m, and 704 of this title.

(May 15, 1928, ch. 569, § 9, 45 Stat. 537.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 701c-1, 701e, 702a, 702a-1½, 702a-1¾, 702a-11, 702c, 702h, 702j, 702m, 702n of this title.

§ 702j. Projects relating to tributary streams; report to Congress; appropriation

It is the sense of Congress that the surveys of the Mississippi River and its tributaries, authorized pursuant to the Act of January 21, 1927 [ch. 47, 44 Stat. 1010], and House Document Numbered 308, Sixty-ninth Congress, first session, be prosecuted as speedily as practicable, and the Secretary of the Army, through the Corps of Engineers, United States Army, is directed to prepare and submit to Congress at the earliest practicable date projects for flood control on all tributary streams of the Mississippi River system subject to destructive floods which projects shall include: The Red River and tributaries, the Yazoo River and tributaries, the White River and tributaries, the Saint Francis River and tributaries, the Arkansas River and tributaries, the Ohio River and tributaries, the Missouri River and tributaries, and the Illinois River and tributaries; and the reports thereon, in addition to the surveys provided by said House Document 308, Sixty-ninth Congress, first session, shall include the effect on the subject of further flood control of the lower Mississippi River to be attained through the control of the flood waters in the drainage basins of the tributaries by the establishment of a reservoir system; the benefits that will accrue to navigation and agriculture from the prevention of erosion and siltage entering the stream; a determination of the capacity of the soils of the district to receive and hold waters from such reservoirs; the prospective income from the disposal of reservoired waters; the extent to which reservoired waters may be made available for public and private uses; and inquiry as to the return flow of waters placed in the soils from reservoirs, and as to their stabilizing effect on stream flow as a means of preventing erosion, siltage, and improving navigation: *Provided*, That before transmitting such reports to Congress the same shall be presented to the Mississippi River Commission, and its conclusions and recommendations thereon shall be transmitted to Congress by the Secretary of the Army with his report.

The sum of $5,000,000 is authorized to be used out of the appropriation authorized in section 702a of this title, in addition to amounts authorized in the River and Harbor Act of January 21, 1927 [ch. 47, 44 Stat. 1010], to be expended under the direction of the Secretary of the Army and the supervision of the Chief of Engineers for the preparation of the flood-control projects authorized to be submitted to Congress under this section: *Provided further*, That the flood surveys herein provided for shall be made simultaneously with the flood-control work on the Mississippi River provided for in sections 702a, 702b to 702d, 702e to 702g, 702h, 702i, 702j, 702k, 702*l*, 702m, and 704 of this title: *And provided further*, That the President shall proceed to ascertain through the Secretary of Agriculture and such other agencies as he may deem proper, the extent to and manner in which the floods in the Mississippi Valley may be controlled by proper forestry practice.

(May 15, 1928, ch. 569, § 10, 45 Stat. 538.)

REFERENCES IN TEXT

The Act of January 21, 1927 [ch. 47, 44 Stat. 1010], referred to in text, popularly known as the River and Harbor Act of January 21, 1927, was not classified to the Code, except for subsections (b) and (d) of section 5 of the act, which enacted sections 569 and 584 of this title.

"Herein", referred to in text, means act May 15, 1928, ch. 569, 45 Stat. 534, which enacted sections 702a, 702b to 702d, 702e to 702g, 702h, 702i, 702j, 702k, 702*l*, 702m, and 704 of this title. For complete classification of this Act to the Code, see Tables volume.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces", which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of the Department of Agriculture, with certain exceptions, to the Secretary of Agriculture, with power to delegate, see Reorg. Plan No. 2 of 1953, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633,

set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 701c-1, 701e, 702a, 702a-1½, 702a-1¾, 702a-11, 702c, 702h, 702l, 702m, 702n of this title.

§ 702j-1. Saint Francis and Yazoo Rivers; lands and easements; alteration of highways; cooperation of States

(a) Neither of the projects for the flood control of the Saint Francis River or the Yazoo River, authorized by sections 642a, 702a-1, 702a-2 to 702a-12, 702g-1, 702j-1, 702j-2, 702k-1, and 702k-2 of this title, shall be undertaken until the States, or other qualified agencies, shall have furnished satisfactory assurances that they will undertake, without cost to the United States, all alterations of highways made necessary because of the construction of the authorized reservoirs, and meet all damages because of such highway alterations, and have agreed also to furnish without cost to the United States all lands and easements necessary to the construction of levees and drainage ditches constructed under this project: *Provided,* That the reservoirs for control of headwater flow of the Yazoo River system may be located by the Chief of Engineers, in his discretion: *And provided further,* That the Chief of Engineers may, in his discretion, substitute levees, floodways, or auxiliary channels, or any or all of them, for any or all of the seven detention reservoirs recommended in his report of February 12, 1935, for the control of floods of the Yazoo River: *And provided further,* That the Chief of Engineers, with the approval of the Secretary of the Army, may modify the project for the flood control of the Saint Francis River as recommended in said report, to include therein the construction of a detention reservoir for the reduction of floods, and the acquisition at the cost of the United States of all lands and flowage necessary to the construction of said reservoir except flowage of highways: *Provided further,* That the estimated cost to the United States of the project is not increased by reason of such detention reservoir.

(b) The Chief of Engineers may, in his discretion, modify the project for the control of floods on the Yazoo River, as authorized by subsection (a) of this section, to substitute therefor a combined reservoir floodway and levee plan: *Provided,* That the total cost thereof does not exceed the present authorization as estimated in House Committee on Flood Control Document Numbered 1, Seventy-fourth Congress, first session: *Provided further,* That the modified project shall be subject to the following conditions of local cooperation:

No work shall be undertaken until the States or other qualified agencies have furnished satisfactory assurances that they will—

(1) undertake, without cost to the United States, all alterations of highways made necessary because of the construction of reservoirs and meet all damages because of such highway alterations; and

(2) furnish, without cost to the United States, all lands and easements necessary to the construction of levees and drainage ditches.

(June 15, 1936, ch. 548, § 4, 49 Stat. 1509; Aug. 28, 1937, ch. 877, § 6, 50 Stat. 880.)

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces", which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

Subsection (a) is comprised of act June 15, 1936, while subsec. (b) is from act Aug. 28, 1937.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 702a-1, 702a-1½, 702a-1¾, 702a-11, 702a-12, 702k-1 of this title.

§ 702j-2. White River Levee District; rights-of-way; drainage facilities; flowage rights; acquisition by local authorities; protection of United States from liability for damages

The Chief of Engineers, under the supervision of the Secretary of the Army, shall at the expense of the United States Government construct a system of levees substantially in accordance with general plan shown on map designated as sheet numbered 1 entitled "Tributary Levee Location Survey—White River Levee District—Proposed Levee Location" accompanying report dated April 2, 1925, and filed in office of First and Second Mississippi River Commission Districts, Memphis, Tennessee. The Chief of Engineers shall have the right to alter, change, or modify said plan as to the grades and levee sections: *Provided, however,* That no work shall be commenced on the above-mentioned project until the State, levee boards, or other responsible local interests have given assurances satisfactory to the Secretary of the Army that they will (a) provide without cost to the United States all rights-of-way necessary for the construction of said project; (b) provide drainage facilities made necessary by construction of levees; (c) acquire and provide without cost to the United States all flowage and storage rights and easements over, upon, and across the lands and properties within the protected area in the event it becomes necessary in the judgment and discretion of the Secretary of the Army or the Chief of Engineers to use said area, or any part thereof, for an emergency reservoir; (d) hold and save the United States free from liability for damages on account of the use of said area for reservoir purposes during said emergency.

(June 15, 1936, ch. 548, § 5, 49 Stat. 1509.)

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 702a-1, 702a-1½, 702a-1¾, 702a-11, 702a-12, 702j-1, 702k-1 of this title.

§ 702k. Surveys below Cape Girardeau, Missouri; resurvey of levee in Tennessee

The Secretary of the Army shall cause the Mississippi River Commission to make an examination and survey of the Mississippi River below Cape Girardeau, Missouri, (a) at places where levees have prior to May 15, 1928, been constructed on one side of the river and the lands on the opposite side have been thereby subjected to greater overflow, and were, without unreasonably restricting the flood channel, levees can be constructed to reduce the extent of this overflow, and where the construction of such levees is economically justified, and report thereon to the Congress as soon as practicable with such recommendations as the commission may deem advisable; (b) with a view to determining the estimated effects, if any, upon lands lying between the river and adjacent hills by reason of overflow of such lands caused by the construction of levees at other points along the Mississippi River, and determining the equities of the owners of such lands and the value of the same, and the commission shall report thereon to the Congress as soon as practicable with such recommendation as it may deem advisable: *Provided*, That inasmuch as the Mississippi River Commission made a report on the 26th day of October 1912, recommending a levee to be built from Tiptonville, Tennessee, to the Obion River in Tennessee, the said Mississippi River Commission is authorized to make a resurvey of said proposed levee and a relocation of the same if necessary, and if such levee is found feasible, and is approved by the board created in section 702a of this title, and by the President the same shall be built out of appropriations made after May 15, 1928.

(May 15, 1928, ch. 569, § 11, 45 Stat. 538.)

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 701c-1, 701e, 702a, 702a-1½, 702a-1¾, 702a-11, 702a-12, 702c, 702h, 702i, 702j, 702*l*, 702m, 702n of this title.

§ 702k-1. Authorization of appropriation

$272,000,000 is authorized to be appropriated for the carrying out of the modified adopted project, and all unexpended balances of appropriations heretofore made for the prosecution of said flood-control project are made available for the purposes of sections 642a, 702a-1, 702a-2 to 702a-12, 702g-1, 702j-1, 702j-2, 702k-1, and 702k-2 of this title.

(June 15, 1936, ch. 548, § 13, 49 Stat. 1513.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 702a-1, 702a-1½, 702a-1¾, 702a-4, 702a-9, 702a-10, 702a-11, 702a-12, 702j-1 of this title.

§ 702k-2. Separability of provisions

If any provision of sections 642a, 702a-1, 702a-2 to 702a-12, 702g-1, 702j-1, 702j-2, and 702k-1 of this title, or the application thereof, to any person or circumstances, is held invalid, the remainder of the said sections, and the application of such provisions to other persons or circumstances, shall not be affected thereby.

(June 15, 1936, ch. 548, § 14, 49 Stat. 1513.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 702a-1, 702a-1½, 702a-1¾, 702a-11, 702a-12, 702j-1, 702k-1 of this title.

§ 702*l*. Repeal of inconsistent laws

All laws or parts of laws inconsistent with sections 702a, 702b to 702d, 702e to 702g, 702h, 702i, 702j, and 702k of this title, are repealed.

(May 15, 1928, ch. 569, § 12, 45 Stat. 539.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 701c-1, 701e, 702a, 702a-1½, 702a-1¾, 702a-11, 702a-12, 702c, 702h, 702i, 702j 702m, 702n of this title.

§ 702m. Interest of Members of Congress in contracts for acquisition of land

In every contract or agreement to be made or entered into for the acquisition of land either by private sale or condemnation as in sections 702a, 702b to 702d, 702e to 702g, 702h, 702i, 702j, 702k, 702*l*, 702m, and 704 of this title provided the provisions contained in section 22 of Title 41 shall be applicable.

(May 15, 1928, ch. 569, § 14, 45 Stat. 539.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 701c-1, 701e, 702a, 702a-1½, 702a-1¾, 702a-11, 702a-12, 702c, 702h, 702i, 702j, 702n of this title.

§ 702n. Levee rights-of-way; payment or reimbursement for

The Secretary of the Army is authorized, out of any money available for carrying out the provisions of sections 702a, 702b to 702d, 702e to 702g, 702h, 702i, 702j, 702k, 702*l*, 702m, and 704 of this title, to purchase from, or to reimburse States or local levee districts for the cost of, any levee rights-of-way or easements for the building of levees in the Mississippi Valley for which the United States was or is under obligation to pay under the provisions of said sections regardless of whether said States or local levee districts have furnished such rights-of-way in the past and regardless of the conditions under which such levee rights-of-way were furnished, or may be furnished in the future: *Provided*, That after careful investigation the prices are found to be reasonable: *And provided further*, That payments or reimbursements for levee rights-of-way or easements conveying the privilege of building levees may be made as soon as they have been acquired in conformity with local custom or legal procedure in such matters

and to the satisfaction of the Chief of Engineers.

(Apr. 23, 1934, ch. 159, 48 Stat. 607.)

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

§ 703. Sacramento River, California

Flood-control works authorized—For controlling the floods, removing the débris, and continuing the improvement of the Sacramento River, California, in accordance with the plans of the California Débris Commission, the Secretary of the Army is authorized and directed to carry on continuously, by hired labor or otherwise, the plan of said commission contained in its report submitted August 10, 1910, and printed in House Document Numbered 81, Sixty-second Congress, first session, as modified by the report of said commission submitted February 8, 1913, approved by the Chief of Engineers of the United States Army and the Board of Engineers for Rivers and Harbors, and printed in Rivers and Harbors Committee Document Numbered 5, Sixty-third Congress, first session, insofar as said plan provides for the rectification and enlargement of river channels and the construction of weirs, to be paid for as appropriations may from time to time be made by law, not to exceed in the aggregate $5,600,000: *Provided*, That not more than $1,000,000 shall be expended therefor during any one fiscal year.

Limitation on expenditure of appropriations generally—(a) All money appropriated under authority of this section shall be expended under the direction of the Secretary of the Army, in accordance with the plans, specifications, and recommendations of the California Débris Commission, as approved by the Chief of Engineers, for the control of floods, removal of débris, and the general improvement of the Sacramento River: *Provided*, That no money shall be expended under authority of this section until assurances have been given satisfactory to the Secretary of the Army (a) that the State of California will contribute annually for such work a sum equal to such sum as may be expended annually therefor by the United States under authority of this section; (b) that such equal contributions by the State of California will continue annually until the full equal share of the cost of such work shall have been contributed by said State; and (c) that the river levees contemplated in the report of the California Débris Commission, dated August 10, 1910, will be constructed to such grade and section and within such time as may be required by said commission: *Provided further*, That said State shall not be required to expend for such work, for any one year, a sum larger than that expended thereon by the United States during the same year: *And provided further*, That the total contributions so required of the State of California shall not exceed in the aggregate $5,600,000.

Expenditure of contributions by State of California; acquisition of sites, easements, etc.—(b) All money contributed by the State of California, as herein provided, shall be expended under the direction of the California Débris Commission and in such manner as it may require or approve, and no money appropriated under authority of this section shall be expended in the purchase of or payment for any right-of-way, easement, or land acquired for the purposes of this improvement, but all such rights-of-way, easements, and lands shall be provided free of cost to the United States: *Provided*, That no money paid or expense incurred therefor shall be computed as a part of the contribution of the State of California toward the work of improvement herein provided for within the meaning of paragraph (a) of this section.

Maintenance of works for flood control by State of California—(c) Upon the completion of all works for flood control herein authorized the said works shall be turned over to the State of California for maintenance thereafter; but for all other purposes the United States shall retain such control over the same as it may have the right to exercise upon such completion.

(Mar. 1, 1917, ch. 144, § 2, 39 Stat. 949.)

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

CROSS REFERENCES

Classification as trust funds, appropriation and disbursement of funds contributed for rivers and harbors, and funds contributed for flood control, see section 725s of Title 31, Money and Finance.

Modification of Sacramento River project, see section 704 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 704 of this title.

§ 704. Modification of project

The project for the control of floods in the Sacramento River, California, adopted by section 703 of this title, is modified in accordance with the report of the California Débris Commission submitted in Senate Document Numbered 23, Sixty-ninth Congress, first session: *Provided*, That the total amounts contributed by the Federal Government, including the amounts heretofore contributed by it, shall in no event exceed in the aggregate $17,600,000.

(May 15, 1928, ch. 569, § 13, 45 Stat. 539.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 701c-1, 701e, 702a, 702a-1½, 702a-11 of this title.

§ 705. Salmon River, Alaska; flood control work authorized

The project of prevention and control of floods in the Salmon River, Alaska, recommended in the report of the Chief of Engineers, United States Army, in House Document Numbered 228, Seventy-second Congress, is adopted and authorized and shall be prosecuted under the direction of the Secretary of the Army and the supervision of the Chief of Engineers in accordance with the plan recommended in such report and subject to the conditions set forth therein.

(June 18, 1934, ch. 581, 48 Stat. 991.)

Change of Name

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

§ 706. Secretary of Commerce; current precipitation information; appropriation

There is authorized an expenditure as required, from any appropriations heretofore or hereafter made for flood control, rivers and harbors, and related purposes by the United States, for the establishment, operation, and maintenance by the Secretary of Commerce of a network of recording and nonrecording precipitation stations, known as the Hydroclimatic Network, whenever in the opinion of the Chief of Engineers and the Secretary of Commerce such service is advisable in connection with either preliminary examinations and surveys or works of improvement authorized by the law for flood control, rivers and harbors, and related purposes, and the Secretary of the Army upon the recommendation of the Chief of Engineers is authorized to allot the Secretary of Commerce funds for said expenditure.

(June 28, 1938, ch. 795, § 8, 52 Stat. 1226; Sept. 3, 1954, ch. 1264, title II, § 207, 68 Stat. 1266.)

Amendments

1954—Act Sept. 3, 1954, removed the $375,000 limitation on transfers to the Weather Bureau for providing basic hydrologic and climatic information; inserted references to "rivers and harbors, and related purposes" after "flood control," in two places; and substituted "network of recording and nonrecording precipitation stations, known as the Hydroclimatic Network" for "current information service on precipitation, flood forecasts, and flood warnings"

Change of Name

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

Transfer of Functions

The Weather Bureau of the Department of Commerce was consolidated with the Coast and Geodetic Survey to form a new agency in the Department of Commerce to be known as the Environmental Science Services Administration and the office of Chief of the Weather Bureau was abolished by Reorg. Plan No. 2 of 1965, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the Bureau and the Chief of the Bureau were transferred to the Secretary of Commerce by the Reorg. Plan. Subsequently, the Environmental Science Services Administration was abolished by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, set out in the Appendix to title 5, which created the National Oceanic and Atmospheric Administration in the Department of Commerce. By Department Organization Order 25-5A, republished 39 F.R. 27486, the Secretary of Commerce delegated to NOAA his functions relating to the Weather Bureau. By order of the Acting Associate Administrator of NOAA, the organization name of the Weather Bureau was changed to the National Weather Service. For further details, see the Codification note under section 311 of Title 15, Commerce and Trade.

Section Referred to in Other Sections

This section is referred to in sections 701b-4, 701c-1, 701f-1, 701j of this title.

§ 707. Sumner Dam and Lake Sumner; declaration of purpose; report to Congress; appropriation

The Sumner Dam and Lake Sumner on the Pecos River, New Mexico, is authorized and declared to be for the purposes of controlling floods, regulating the flow of the Pecos River, providing for storage and for delivery of stored waters, for the reclamation of lands, and other beneficial uses, and said dam and reservoir shall be used, first, for irrigation; second, for flood control and river regulation; and third, for other purposes. The Chief of Engineers and the Secretary of the Army are directed to report to the Congress the amount of the total cost of said Sumner Dam and Lake Sumner which is properly allocable to flood control. The appropriation and transfer of such amount from the general fund of the Treasury to the reclamation fund, for credit by reduction of the maximum obligation of the Carlsbad Irrigation District to repay the total cost thereof, is authorized.

(Aug. 11, 1939, ch. 699, § 7, 53 Stat. 1417; Oct. 17, 1974, Pub. L. 93-447, 88 Stat. 1363.)

Amendments

1974—Pub. L. 93-447 substituted "Sumner Dam and Lake Sumner" for "Alamogordo Dam and Reservoir" wherever appearing.

Change of Name

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

ALAMOGORDO DAM AND RESERVOIR REDESIGNATED AS SUMNER DAM AND LAKE SUMNER

Pub. L. 93-447 provided: "That the Alamogordo Dam and Reservoir, New Mexico, referred to in the Act of August 11, 1939 (53 Stat. 1414) [which enacted this section], are redesignated as Sumner Dam and Lake Sumner, respectively. Any law, regulation, map, document, record, or other paper of the United States in which such dam or reservoir is referred to shall be held to refer to such dam as Sumner Dam or such reservoir as Lake Sumner."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 701b-4 of this title.

§ 708. Sale of surplus waters for domestic and industrial uses; disposition of moneys

The Secretary of the Army is authorized to make contracts with States, municipalities, private concerns, or individuals, at such prices and on such terms as he may deem reasonable, for domestic and industrial uses for surplus water that may be available at any reservoir under the control of the Department of the Army: *Provided*, That no contracts for such water shall adversely affect then existing lawful uses of such water. All moneys received from such contracts shall be deposited in the Treasury of the United States as miscellaneous receipts.

(Dec. 22, 1944, ch. 665, § 6, 58 Stat. 890; May 23, 1952, ch. 328, § 1(a), 66 Stat. 93.)

AMENDMENTS

1952—Act May 23, 1952, revived and reenacted this section.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

REPEALS

Act May 23, 1952 § 1(b), repealed paragraph (59) of section 1 of act Oct. 31, 1951, ch. 654, 65 Stat. 703, which had previously repealed this section.

TRANSFER OF FUNCTIONS

For transfer of certain personal property and functions relating thereto, insofar as they pertain to the Air Force, from the Secretary of the Army and Department of the Army to the Secretary of the Air Force and Department of the Air Force, see Secretary of Defense Transfer Order No. 39, eff. May 18, 1949, and 40 [App. B (98)], July 22, 1949.

SECTION AS UNAFFECTED BY SUBMERGED LANDS ACT

Provisions of this section as not amended, modified or repealed by the Submerged Lands Act, see section 1303 of Title 43, Public Lands.

§ 709. Regulations for use of storage waters; application to Tennessee Valley Authority

On and after December 22, 1944, it shall be the duty of the Secretary of the Army to prescribe regulations for the use of storage allocated for flood control or navigation at all reservoirs constructed wholly or in part with Federal funds provided on the basis of such purposes, and the operation of any such project shall be in accordance with such regulations: *Provided*, That this section shall not apply to the Tennessee Valley Authority, except that in case of danger from floods on the Lower Ohio and Mississippi Rivers the Tennessee Valley Authority is directed to regulate the release of water from the Tennessee River into the Ohio River in accordance with such instructions as may be issued by the Department of the Army.

(Dec. 22, 1944, ch. 665, § 7, 58 Stat. 890.)

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

SECTION AS UNAFFECTED BY SUBMERGED LANDS ACT

Provisions of this section as not amended, modified or repealed by the Submerged Lands Act, see section 1303 of Title 43, Public Lands.

CROSS REFERENCES

Tennessee Valley Authority, see section 831 et seq. of Title 16, Conservation.

§ 709a. Compilation and dissemination of information on floods and flood damages; advice; authorization for expenditures

(a) In recognition of the increasing use and development of the flood plains of the rivers of the United States and of the need for information on flood hazards to serve as a guide to such development, and as a basis for avoiding future flood hazards by regulation of use by States and political subdivisions thereof, and to assure that Federal departments and agencies may take proper cognizance of flood hazards, the Secretary of the Army, through the Chief of Engineers, is hereby authorized to compile and disseminate information on floods and flood damages, including identification of areas subject to inundation by floods of various magnitudes and frequencies, and general criteria for guidance of Federal and non-Federal interests and agencies in the use of flood plain areas; and to provide advice to other Federal agencies and local interests for their use in planning to ameliorate the flood hazard. Surveys and guides will be made for States and political subdivisions thereof only upon the request of a State or a political subdivision thereof, and upon approval by the Chief of Engineers, and such information and advice provided them only upon such request and approval.

(b) The Secretary of the Army is authorized to expend not to exceed $15,000,000 per fiscal year for the compilation and dissemination of information under this section.

(Pub. L. 86-645, title II, § 206, July 14, 1960, 74 Stat. 500; Pub. L. 89-298, title II, § 220, Oct. 27, 1965, 79 Stat. 1089; Pub. L. 89-789, title II, § 206, Nov. 7, 1966, 80 Stat. 1422; Pub. L. 91-611, title II, § 225, Dec. 31, 1970, 84 Stat. 1832; Pub. L. 93-251, title I, § 64, Mar. 7, 1974, 88 Stat. 30.)

AMENDMENTS

1974—Subsec. (b). Pub. L. 93-251 increased fiscal year expenditure authorization from $11,000,000 to $15,000,000.

1970—Subsec. (b). Pub. L. 91-611 increased fiscal year expenditure authorization from $7,000,000 to $11,000,000.

1966—Subsec. (a). Pub. L. 89-789 substituted "political subdivisions thereof" for "municipalities" and "advice" for "engineering advice", inserted provision "to assure that Federal departments and agencies may take proper cognizance of flood hazards", provided for guidance of Federal and non-Federal interests and agencies and advice to other Federal agencies, and for surveys and guides upon request of a State or political subdivision in lieu of surveys and studies for specific localities upon request of a State or responsible local governmental agency.

Subsec. (b). Pub. L. 89-789 substituted "expend not to exceed $7,000,000 per fiscal year for the compilation "allot, from any appropriations hereafter made for flood control, sums not to exceed $2,500,000 in any one fiscal year for the compilation and dissemination of such information".

1965—Subsec. (b). Pub. L. 89-298 increased annual appropriation authorization from $1,000,000 to $2,500,000.

CHAPTER 16—LIGHTHOUSES

Sec.
711 to 715. Omitted.
716. Repealed.
717. Detail of Army engineers as construction aids.
717a, 718. Repealed.
719. Omitted.
720, 720a. Repealed.
721. Omitted.
721a to 724. Repealed.
725. Prohibition against officers and employees being interested in contracts for materials, etc.
726. Repealed.
727. Lighthouse and other sites; necessity for cession by State of jurisdiction.
728. Sufficiency of cession by State; service of State process in lands ceded.
729, 730. Repealed.
730a. Sites for pierhead beacons.
731, 732. Repealed.
733. Approval of title prior to Federal land purchases; payment of title expenses; application of Tennessee Valley Authority; Federal jurisdiction over acquisitions.
734. Repealed.
735. Marking pierheads in certain lakes.
736. Repealed.
737, 738. Omitted.
739 to 742. Repealed.
743. Lighthouse districts.
744. Omitted.
745. Repealed.
745a. Traveling expenses of new appointees to isolated posts outside United States.
746 to 747a. Repealed.
747b. Lighthouse keepers; traveling expenses incurred in obtaining medical attention.
748. Teachers for children of lighthouse keepers.
748a. Transportation expenses for school children.
749 to 752a. Repealed.
752b. Omitted.
753, 754. Repealed.
754a. Purchase of commissary and quartermaster supplies.
755 to 762. Repealed.
763. Retirement for age of officers and employees generally; retirement pay; waiver of retirement pay.
763-1. Increase of retired pay.
763-2. Additional increase of retired pay.
Sec.
763a. Repealed.
763a-1. Retirement, exceptions for age and period of service.
763a-2. Application to persons of Coast Guard.
763b, 763c. Repealed.
764. Omitted.
765. Retirement for disability.
766. Restoration to active duty after retirement for disability.
767 to 769. Repealed.
770. Regulations for expenditure of moneys accruing from commutation of rations and provisions.
771. Benefits for widows of Lighthouse Service personnel; death of employee during retirement; amount of payment.
772. Death of employee due to non-service-connected causes after 15 years' service; amount of payment.
773. Application for benefits.
774. Rules and regulations.
775. Payments nonassignable and exempt from process.
776. Payment out of Civil Service retirement and disability fund.

§§ 711 to 715. Omitted

CODIFICATION

Sections related to the establishment of the Bureau of Lighthouses in the Department of Commerce. The Bureau of Lighthouses and its functions were transferred to and consolidated with the Coast Guard in the Department of the Treasury to be administered as a part thereof by Reorg. Plan No. II of 1939, § 2(a), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1432, set out in the Appendix to Title 5, Government Organization and Employees. Further provision to perfect the consolidation of the Lighthouse Service with the Coast Guard by authorizing the commissioning, appointment, and enlistment in the Coast Guard, of certain officers and employees of the Lighthouse Service, was made by act Aug. 5, 1939, ch. 477, 53 Stat. 1216.

Section 711, acts June 17, 1910, ch. 301, § 4, 36 Stat. 537; Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736; June 5, 1920, ch. 264, § 2, 41 Stat. 1059; July 3, 1930, ch. 850, 46 Stat. 1003; Aug. 16, 1937, ch. 665, § 4, 50 Stat. 667, which related to establishment of Bureau of Lighthouses, personnel, salaries, and annual reports, was omitted from the Code as obsolete.

Act June 5, 1920, ch. 264, § 2, 41 Stat. 1059, formerly classified to section 711 of this title, was repealed by Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 644.

Section 712, acts July 27, 1912, ch. 255, § 2, 37 Stat. 239; Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736, which authorized designation of acting commissioner, was omitted from the Code as obsolete.

Section 713, acts June 17, 1910, ch. 301, § 10, 36 Stat. 538; Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736, which related to regulations for Lighthouse Service, was omitted from the Code as obsolete.

Section 714, acts June 17, 1910, ch. 301, § 6, 36 Stat. 538; acts Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736, which transferred duties of Lighthouse Board to Commissioner of Lighthouses, was omitted from the Code as obsolete.

Section 715, act June 17, 1910, ch. 301, § 5, 36 Stat. 537, which related to the transfer of employees, was omitted from the Code as obsolete.

§ 716. Repealed. Aug. 4, 1949, ch. 393, § 20, 63 Stat. 561

Section, acts June 17, 1910, ch. 301, § 9, 36 Stat. 538; July 27, 1939, ch. 388, § 1, 53 Stat. 1130, related to employment of temporary draftsmen and is now covered by section 653 of Title 14, Coast Guard.

EFFECTIVE DATE OF REPEAL

Repeal of section effective the first day of the third month after the month of approval, August 1949, see

section 19 of act Aug. 4, 1949, set out as an Effective Date note preceding chapter 1 of Title 14, Coast Guard.

§ 717. Detail of Army engineers as construction aids

The President may detail officers of the Engineer Corps of the United States Army for consultation or to superintend the construction or repair of any aid to navigation authorized by Congress.

(June 17, 1910, ch. 301, § 11, 36 Stat. 539.)

CODIFICATION

This section was enacted as part of section 11 of act June 17, 1910, which also enacted section 743 of this title.

§ 717a. Repealed. Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 647

Section, act Feb. 25, 1929, ch. 313, § 5, 45 Stat. 1262, provided for the detail of superintendents and engineers to duty at Washington.

§ 718. Repealed. Aug. 4, 1949, ch. 393, § 20, 63 Stat. 561

Section, act Feb. 26, 1907, ch. 1638, § 6, 34 Stat. 997, related to traveling expenses of Army and Navy officers and is now covered by section 404 et seq. of Title 37, Pay and Allowances of the Uniformed Services.

EFFECTIVE DATE OF REPEAL

Repeal of section effective the first day of the third month after the month of approval, August 1949, see section 19 of act Aug. 4, 1949, set out as an Effective Date note preceding chapter 1 of Title 14, Coast Guard.

§ 719. Omitted

CODIFICATION

Section, R.S. § 4679, which provided that no additional salary should be allowed to any civil, military, or naval officer on account of his being employed in the Light-House Board, or being in any manner attached to the light-house service, was omitted from the Code as obsolete. The functions of the Light-House Board and all employees of or in the Light-House Board or the Light-House Establishment, except army and navy officers, were transferred to the Bureau of Lighthouses by act June 17, 1910, ch. 301, §§ 5, 6, 36 Stat. 537. The Bureau of Lighthouses was transferred to and consolidated in the Coast Guard by Reorg. Plan No. II of 1939, § 2(a), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1432, set out in the Appendix to Title 5, Government Organization and Employees. Act Aug. 5, 1939, ch. 477, 53 Stat. 1216, provided for the commissioning or enlistment in the Coast Guard of former employees of the Bureau of Lighthouses.

§§ 720, 720a. Repealed. Aug. 4, 1949, ch. 393, § 20, 63 Stat. 561

Section 720, acts June 17, 1910, ch. 301, § 7, 36 Stat. 538; Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736, related to general control by Commandant of Coast Guard, and is now covered by section 81 of Title 14, Coast Guard.

Section 720a, act Aug. 16, 1937, ch. 665, § 3, 50 Stat. 667, related to establishment and maintenance of aids to navigation in certain waters, and is now covered by section 81 of Title 14, Coast Guard.

EFFECTIVE DATE OF REPEAL

Repeal of sections effective the first day of the third month after the month of approval, August 1949, see section 19 of act Aug. 4, 1949, set out as an Effective Date note preceding chapter 1 of Title 14, Coast Guard.

§ 721. Omitted

CODIFICATION

Section, acts June 17, 1910, ch. 301, § 4, 36 Stat. 537; Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736; Aug. 16, 1937, ch. 665, § 4, 50 Stat. 667, which gave the Commissioner the power to settle damage claims up to $500, was omitted from the Code as obsolete. These duties and functions of the Commissioner of Lighthouses were taken over by the Commandant of the Coast Guard under Reorg. Plan II of 1939, § 2(a), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1432, set out in the Appendix to Title 5, Government Organization and Employees.

§§ 721a to 724. Repealed. Aug. 4, 1949, ch. 393, § 20, 63 Stat. 561

Section 721a, acts Aug. 16, 1937, ch. 665, § 2, 50 Stat. 667; July 11, 1941, ch. 290, § 2, 55 Stat. 585, related to deposit of damage payments and disbursement and is now covered by section 642 of Title 14, Coast Guard.

Section 722, acts July 7, 1884, ch. 332, 23 Stat. 198; June 17, 1910, ch. 301, § 6, 36 Stat. 538, related to necessity for contract for expenditure of appropriations.

Section 723, act Mar. 4, 1909, ch. 299, § 1, 35 Stat. 973, related to proposals for repair of vessels and specifications.

Section 724, act June 17, 1910, ch. 301, § 8, 36 Stat. 538; Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736, related to contracts for materials and necessity for public letting.

EFFECTIVE DATE OF REPEAL

Repeal of sections effective the first day of the third month after the month of approval, August 1949, see section 19 of act Aug. 4, 1949, set out as an Effective Date note preceding chapter 1 of Title 14, Coast Guard.

§ 725. Prohibition against officers and employees being interested in contracts for materials, etc.

No Commandant of the Coast Guard, light keeper, or other person in any manner connected with the light-house service, shall be interested, either directly or indirectly, in any contract for labor, materials, or supplies for the light-house service, or in any patent, plan, or mode of construction or illumination, or in any article of supply for the light-house service.

(R.S. § 4680; June 17, 1910, ch. 301, §§ 6, 13, 36 Stat. 538, 539; June 20, 1918, ch. 103, § 7, 40 Stat. 608; 1939 Reorg. Plan No. II, § 2(A), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1432; Aug. 4, 1949, ch. 393, §§ 1, 20, 63 Stat. 496, 561.)

CODIFICATION

R.S. § 4680 is from act Aug. 31, 1852, ch. 112, § 17, 10 Stat. 120.

AMENDMENTS

1949—Act Aug. 4, 1949, reestablished the Coast Guard and repealed act June 17, 1910, ch. 301, § 6, 36 Stat. 538.

EFFECTIVE DATE OF 1949 AMENDMENT

Amendment by act Aug. 4, 1949, effective the first day of the third month after the month of approval, August 1949, see section 19 of act Aug. 4, 1949, set out as an Effective Date note preceding chapter 1 of Title 14, Coast Guard.

TRANSFER OF FUNCTIONS

"Commandant of the Coast Guard" was substituted for "member of the Light-House Board" on authority of act June 17, 1910, which abolished the board and transferred its powers and duties to the Commissioner of Lighthouses who was the head of the Bureau of Lighthouses. Section 2(a) of Reorg. Plan No. II of

1939, set out in the Appendix to Title 5, Government Organization and Employees, consolidated the Bureau of Lighthouses with the Coast Guard, the Chief of which is the Commandant of the Coast Guard.

The word "inspector", which had preceded "lightkeeper", has been deleted as obsolete in view of act June 20, 1918, which transferred such officers to the position of superintendent of lighthouses within the Bureau of Lighthouses and the subsequent consolidation of such bureau with the Coast Guard by section 2(a) of Reorg. Plan No. II of 1939.

The light-house service was a service under the control of the Commissioner of Lighthouses within the Bureau of Lighthouses.

For transfer of functions of other officers, employees, and agencies of the Department of the Treasury, with certain exceptions, to the Secretary of the Treasury with power to delegate, see Reorg. Plan No. 26 of 1950, §§ 1, 2 eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, 1281, set out in the Appendix to Title 5, Government Organization and Employees. Functions of the Coast Guard, and the Commandant of the Coast Guard, were excepted from transfer when the Coast Guard is operating as part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

The Coast Guard was transferred to the Department of Transportation, and all functions, powers, and duties relating to the Coast Guard of the Secretary of the Treasury and of other officers and offices of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, § 6(b)(1), Oct. 15, 1966, 80 Stat. 938. Section 6(b)(2) of Pub. L. 89-670, however, provided that notwithstanding such transfer of functions, the Coast Guard shall operate as part of the Navy in time of war or when the President directs as provided in section 3 of Title 14, Coast Guard. See section 1655 of Title 49, Transportation.

§ 726. Repealed. Aug. 4, 1949, ch. 393, § 20, 63 Stat. 561

Section, act Mar. 4, 1913, ch. 168, 37 Stat. 1018, related to the procurement of supplies and equipment for special works of former Lighthouse Service and is now covered by section 649 of Title 14, Coast Guard.

EFFECTIVE DATE OF REPEAL

Repeal of section effective the first day of the third month after the month of approval, August 1949, see section 19 of act Aug. 19, 1949, set out as an Effective Date note preceding chapter 1 of Title 14, Coast Guard.

§ 727. Lighthouse and other sites; necessity for cession by State of jurisdiction

No lighthouse, beacon, public piers, or landmark, shall be built or erected on any site until cession of jurisdiction over the same has been made to the United States.

(R.S. § 4661.)

CODIFICATION

R.S. § 4661 is from act Mar. 3, 1821, ch. 52, § 3, 3 Stat. 644.

CROSS REFERENCES

Acceptance of cession of jurisdiction, exclusive or partial, see section 733 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 728 of this title.

§ 728. Sufficiency of cession by State; service of State process in lands ceded

A cession by a State of jurisdiction over a place selected as the site of a lighthouse, or other structure or work, shall be deemed sufficient within section 727 of this title, notwithstanding it contains a reservation that process issued under authority of such State may continue to be served within such place. And notwithstanding any such cession of jurisdiction contains no such reservation, all process may be served and executed within the place ceded, in the same manner as if no cession had been made.

(R.S. § 4662.)

CODIFICATION

R.S. § 4662 is from act Mar. 2, 1795, ch. 40, §§ 1, 2, 1 Stat. 426.

§§ 729, 730. Repealed. Aug. 4, 1949, ch. 393, § 20, 63 Stat. 561

Section 729, acts June 17, 1910, ch. 301, § 9, 36 Stat. 538; Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736, related to purchase by commandant of sites for lighthouses and is now covered by sections 92(f) and 653 of Title 14, Coast Guard.

Section 730, acts Mar. 4, 1913, ch. 168, 37 Stat. 1018; Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736; Oct. 22, 1913, ch. 32, 38 Stat. 225, related to purchase of additional land for lighthouses and depots and is now covered by section 92(f) of Title 14, Coast Guard.

EFFECTIVE DATE OF REPEAL

Repeal of sections effective the first day of the third month after the month of approval, August 1949, see section 19 of act Aug. 19, 1949, set out as an Effective Date note preceding chapter 1 of Title 14, Coast Guard.

§ 730a. Sites for pierhead beacons

The Secretary of Transportation is authorized whenever he shall deem it advisable, to acquire, by donation or purchase in behalf of the United States, the right to use and occupy sites for pierhead beacons the establishment of which has been, or shall hereafter be, authorized by Congress.

(Mar. 3, 1875, ch. 130, § 1, 18 Stat. 372; Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736; 1939 Reorg. Plan No. II, § 2(a), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1432; Oct. 15, 1966, Pub. L. 89-670, § 6(b)(1), 80 Stat. 938.)

CODIFICATION

Section is based on the last paragraph under the heading "FOR LIFE-SAVING AND LIFE-BOAT STATIONS" of act Mar. 3, 1875, ch. 130, 18 Stat. 372, insofar as such paragraph provided for the right to use and occupy sites for pier-head beacons. Provisions of such paragraph relating to the right to use and occupy sites for Coast Guard Stations and houses of refuge were classified to section 96 of former title 14, Coast Guard, and were repealed by act Aug. 4, 1949, ch. 393, § 20, 63 Stat. 561, and restated as section 92(f) of Title 14, Coast Guard.

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation, and all functions, powers, and duties relating to the Coast Guard of the Secretary of the Treasury and of other officers and offices of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, § 6(b)(1), Oct. 15, 1966, 80 Stat. 938. Section 6(b)(2) of Pub. L. 89-670, however, provided that notwithstanding such transfer of functions, the Coast Guard shall operate as part of the Navy in time of war or when the President directs as provided in section 3 of Title 14, Coast Guard. See section 1655 of Title 49, Transportation.

The Bureau of Lighthouses and its functions were transferred and consolidated with the Coast Guard by Reorg. Plan No. II of 1939, § 2(a), set out in the Appendix to Title 5, Government Organization and Employees.

§§ 731, 732. Repealed. Aug. 4, 1949, ch. 393, § 20, 63 Stat. 561

Section 731, acts Mar. 4, 1909, ch. 299, § 1, 35 Stat. 972; June 17, 1910, ch. 301, § 6, 36 Stat. 538, related to lease of sites for temporary lights. See now section 92 of Title 14, Coast Guard.

Section 732, acts Aug. 28, 1916, ch. 414, § 2, 39 Stat. 538; July 11, 1941, ch. 290, § 1, 55 Stat. 584, related to exchange of right-of-way pertaining to Coast Guard. See now section 92 of Title 14, Coast Guard.

EFFECTIVE DATE OF REPEAL

Repeal of sections effective the first day of the third month after the month of approval, August 1949, see section 19 of act Aug. 4, 1949, set out as an Effective Date note preceding chapter 1 of Title 14, Coast Guard.

§ 733. Approval of title prior to Federal land purchases; payment of title expenses; application to Tennessee Valley Authority; Federal jurisdiction over acquisitions

Unless the Attorney General gives prior written approval of the sufficiency of the title to land for the purpose for which the property is being acquired by the United States, public money may not be expended for the purchase of the land or any interest therein.

The Attorney General may delegate his responsibility under this section to other departments and agencies, subject to his general supervision and in accordance with regulations promulgated by him.

Any Federal department or agency which has been delegated the responsibility to approve land titles under this section may request the Attorney General to render his opinion as to the validity of the title to any real property or interest therein, or may request the advice or assistance of the Attorney General in connection with determinations as to the sufficiency of titles.

Except where otherwise authorized by law or provided by contract, the expenses of procuring certificates of title or other evidences of title as the Attorney General may require may be paid out of the appropriations for the acquisition of land or out of the appropriations made for the contingencies of the acquiring department or agency.

The foregoing provisions of this section shall not be construed to affect in any manner any existing provisions of law which are applicable to the acquisition of lands or interests in land by the Tennessee Valley Authority.

Notwithstanding any other provision of law, the obtaining of exclusive jurisdiction in the United States over lands or interests therein which have been or shall hereafter be acquired by it shall not be required; but the head or other authorized officer of any department or independent establishment or agency of the Government may, in such cases and at such times as he may deem desirable, accept or secure from the State in which any lands or interests therein under his immediate jurisdiction, custody, or control are situated, consent to or cession of such jurisdiction, exclusive or partial, not theretofore obtained, over any such lands or interests as he may deem desirable and indicate acceptance of such jurisdiction on behalf of the United States by filing a notice of such acceptance with the Governor of such State or in such other manner as may be prescribed by the laws of the State where such lands are situated. Unless and until the United States has accepted jurisdiction over lands hereafter to be acquired as aforesaid, it shall be conclusively presumed that no such jurisdiction has been accepted.

(R.S. § 355; June 28, 1930, ch. 710, 46 Stat. 828; Feb. 1, 1940, ch. 18, 54 Stat. 19; Oct. 9, 1940, ch. 793, 54 Stat. 1083; Sept. 1, 1970, Pub. L. 91-393, § 1, 84 Stat. 835.)

CODIFICATION

R.S. § 355 is from Res. Sept. 11, 1841, No. 6, 5 Stat. 468.

The first four pars. of this section are based on R.S. § 355, as amended by the first par. of section 1 of Pub. L. 91-393. The fifth par. is based on the last par. of section 1 of Pub. L. 91-393.

Section is also set out as section 255 of Title 40, Public Buildings, Property, and Works, and section 175 of Title 50, War and National Defense.

AMENDMENTS

1970—Pub. L. 91-393 substituted provisions requiring the Attorney General to give written approval of the sufficiency of title prior to the purchase of lands or interests therein, empowering the Attorney General to delegate his responsibilities, authorizing Federal departments and agencies which have been delegated the responsibility to approve land titles to request opinions, advice or assistance of the Attorney General, and permitting the payment from appropriations of the expenses of procuring certificates or other evidences of title, for provisions which prohibited expenditures of public money upon any site or land purchased by the United States until the Attorney General gave his written opinion in favor of the validity of title, permitted acceptance of title subject to infirmities if the Attorney General approved, authorized the Attorney General to approve title to easements or rights-of-way, and which made certain exceptions from the provisions of this section.

1940—Oct. 9, 1940, among other changes, divided section into paragraphs, omitted a provision requiring United States attorneys, upon application of the Attorney General, to furnish assistance in relation to titles, and inserted the provisions contained in the second, third, fourth and seventh paragraphs.

Act Feb. 1, 1940, omitted a provision requiring consent of the State legislature to the purchase and added the provisions now set out as the eighth paragraph.

1930—Act June 28, 1930, authorized Attorney General to base his opinion in favor of validity of title upon certificate of title of a title company.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 16 sections 343b, 430a, 441i.

§ 734. Repealed. Aug. 4, 1949, ch. 393, § 20, 63 Stat. 561

Section, R.S. § 4678, related to coloring and numbering buoys. See now section 87 of Title 14, Coast Guard.

EFFECTIVE DATE OF REPEAL

Repeal of section effective the first day of the third month after the month of approval, August 1949, see section 19 of act Aug. 4, 1949, set out as an Effective Date note preceding chapter 1 of Title 14, Coast Guard.

§ 735. Marking pierheads in certain lakes

The Commandant of the Coast Guard shall properly mark all pierheads belonging to the United States situated on the northern and northwestern lakes, whenever he is duly notified by the department charged with the construction or repair of pierheads that the construction or repair of any such pierheads has been completed.

(R.S. § 4677; June 17, 1910, ch. 301, §§ 6, 13, 36 Stat. 538, 539; 1939 Reorg. Plan No. II, § 2(a), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1432; Aug. 4, 1949, ch. 393, §§ 1, 20, 63 Stat. 496, 561.)

CODIFICATION

R.S. § 4677 is from act July 15, 1870, ch. 292, § 3, 16 Stat. 309.

AMENDMENTS

1949—Act Aug. 4, 1949, reestablished the Coast Guard and repealed act June 17, 1910, ch. 301, § 6, 36 Stat. 538.

EFFECTIVE DATE OF 1949 AMENDMENT

Amendment by act Aug. 4, 1949, effective the first day of the third month after the month of approval, August 1949, see section 19 of act Aug. 4, 1949, set out as an Effective Date note preceding chapter 1 of Title 14, Coast Guard.

TRANSFER OF FUNCTIONS

"Commandant of the Coast Guard" was substituted for "Light-House Board" on authority of act June 17, 1910, which abolished the board and transferred its powers and duties to the Commissioner of Lighthouses, who was the head of the Bureau of Lighthouses. Section 2(a) of Reorg. Plan No. II of 1939, set out in the Appendix to Title 5, Government Organization and Employees, consolidated the Bureau of Lighthouses with the Coast Guard, the Chief of which is the Commandant of the Coast Guard.

For transfer of functions of other officers, employees, and agencies of the Department of the Treasury, with certain exceptions, to the Secretary of the Treasury with power to delegate, see Reorg. Plan No. 26 of 1950, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, 1281, set out in the Appendix to title 5. Functions of the Coast Guard, and the Commandant of the Coast Guard, were excepted from transfer when the Coast Guard is operating as part of the Navy under sections 1 and 3 of Title 14 Coast Guard.

The Coast Guard was transferred to the Department of Transportation, and all functions, powers, and duties relating to the Coast Guard of the Secretary of the Treasury and of other officers and offices of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, § 6(b)(1), Oct. 15, 1966, 80 Stat. 938. Section 6(b)(2) of Pub. L. 89-670, however, provided that notwithstanding such transfer of functions, the Coast Guard shall operate as part of the Navy in time of war or when the President directs as provided in section 3 of Title 14, Coast Guard. See section 1655 of Title 49, Transportation.

§ 736. Repealed. Aug. 4, 1949, ch. 393, § 20, 63 Stat. 561

Section, R.S. § 4676; acts June 10, 1910, ch. 301, § 6, 36 Stat. 538; Aug. 16, 1937, ch. 665, § 1, 50 Stat. 666, related to placement of markers over sunken craft and other obstructions. See now section 86 of Title 14, Coast Guard.

EFFECTIVE DATE OF REPEAL

Repeal of section effective the first day of the third month after the month of approval, August 1949, see section 19 of act Aug. 4, 1949, set out as an Effective Date note preceding chapter 1 of Title 14, Coast Guard.

§§ 737, 738. Omitted

CODIFICATION

Section 737, act May 14, 1908, ch. 168, § 4, 35 Stat. 162, as affected by act June 17, 1910, ch. 301, § 6, 36 Stat. 538, which related to maintenance of anchorage buoys in New York and Philadelphia harbors, was omitted from the Code as obsolete, and is now covered by section 472 of this title.

Section 738, act June 5, 1920, ch. 235, § 1, 41 Stat. 880, which provided that the Lighthouse Service should cooperate with the Coast Guard in marking certain anchorage grounds, was omitted as obsolete since the Lighthouse Service was consolidated in the Coast Guard by Reorg. Plan No. II of 1939, § 2(a), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1432, set out in the Appendix to Title 5, Government Organization and Employees.

§§ 739 to 740b. Repealed. Aug. 4, 1949, ch. 393, § 20, 63 Stat. 561

Section 739, R.S. § 4668, related to substitution of lighthouses for lightships.

Section 740, acts Mar. 3, 1915, ch. 81, § 5, 38 Stat. 927; Aug. 28, 1916, ch. 414, § 3, 39 Stat. 538; June 20, 1918, ch. 103, § 5, 40 Stat. 608; June 5, 1920, ch. 235, § 1, 41 Stat. 927, related to post-lantern lights on particular waters.

Section 740a, act May 22, 1926, ch. 371, § 6, 44 Stat. 626, related to post-lantern lights on Allegheny and Rock Rivers.

Section 740b, acts June 23, 1874, ch. 455, § 1, 18 Stat. 220; June 17, 1910, ch. 301, § 6, 36 Stat. 538, related to lights and buoys on Mississippi, Ohio, and Missouri Rivers.

Sections now covered by section 81 of Title 14, Coast Guard.

EFFECTIVE DATE OF REPEAL

Repeal of sections effective the first day of the third month after the month of approval, August 1949, see section 19 of act Aug. 4, 1949, set out as an Effective Date note preceding chapter 1 of Title 14, Coast Guard.

§§ 741, 742. Repealed. June 6, 1940, ch. 257, §§ 5, 6, 54 Stat. 247

Section 741, acts May 14, 1908, ch. 168, § 7, 35 Stat. 162; June 17, 1910, ch. 301, § 6, 36 Stat. 538; Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736, related to reports of aids to navigation which might be discontinued.

Section 742, R.S. § 4674; acts Feb. 14, 1903, ch. 552, § 10, 32 Stat. 829; June 17, 1910, ch. 301, § 6, 36 Stat. 538; Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736, related to the discontinuance and reestablishment of lights.

Provisions of section 742 were substantially incorporated into sections 92 and 93 of Title 14, Coast Guard.

§ 743. Lighthouse districts

The ocean, gulf, and lake coasts and the rivers of the United States, Puerto Rico, and the naval station in Cuba shall be arranged into not exceeding nineteen lighthouse districts.

(June 17, 1910, ch. 301, § 11, 36 Stat. 538; May 17, 1932, ch. 190, 47 Stat. 158.)

CODIFICATION

This section was enacted as part of section 11 of act June 17, 1910, which also enacted section 717 of this title.

The original text provided "that the commissioner of lighthouses, subject to the approval of the Secretary of Commerce and Labor, as soon as practicable" should rearrange the ocean, gulf and lake coasts and

the rivers of the United States, Puerto Rico and the naval station in Cuba into not exceeding nineteen lighthouse districts.

PRIOR PROVISIONS

Previous provisions for the arrangement of the various lighthouse districts were made by R.S. § 4670; act July 26, 1886, ch. 779, 24 Stat. 148, which were repealed by section 13 of act June 17, 1910.

AMENDMENTS

1932—Act May 17, 1932, changed the name of "Porto Rico" to "Puerto Rico."

§ 744. Omitted

CODIFICATION

Section, act June 20, 1918, ch. 103, § 7, 40 Stat. 608, which related to superintendents of lighthouses and their salaries, was omitted from the Code as obsolete since the Bureau of Lighthouses and its functions were transferred and consolidated with the Coast Guard by Reorg. Plan No. II of 1939, § 2(a), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1432, set out in the Appendix to Title 5, Government Organization and Employees.

§ 745. Repealed. Aug. 4, 1949, ch. 393, § 20, 63 Stat. 561

Section, R.S. § 4673; act June 20, 1918, ch. 103, § 8, 40 Stat. 609, related to salaries of keepers of lighthouses.

EFFECTIVE DATE OF REPEAL

Repeal of section effective the first day of the third month after the month of approval, August 1949, see section 19 of act Aug. 4, 1949, set out as an Effective Date note preceding chapter 1 of Title 14, Coast Guard.

§ 745a. Traveling expenses of new appointees to isolated posts outside United States

In all appropriations hereafter made for "General expenses, Coast Guard," there is authorized to be made available not exceeding $1,500 in any fiscal year, under rules prescribed by the Secretary of Transportation, for paying the actual and necessary traveling expenses of new appointees from ports of embarkation in the United States to first post of duty at isolated light stations, in districts outside the continental limits of the United States.

(May 13, 1938, ch. 215, § 1, 52 Stat. 353; 1939 Reorg. Plan No. II, § 2(a), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1432; Oct. 15, 1966, Pub. L. 89-670, § 6(b)(1), 80 Stat. 938.)

TRANSFER OF FUNCTIONS

"Coast Guard was substituted for "Lighthouse Service" on authority of Reorg. Plan No. II of 1939, § 2(a), set out in the Appendix to Title 5, Government Organization and Employees, which transferred and consolidated the Bureau of Lighthouses, of which the Lighthouse Service was a part, with the Coast Guard.

For transfer of functions of other officers, employees, and agencies of the Department of the Treasury, with certain exceptions, to the Secretary of the Treasury with power to delegate, see Reorg. Plan No. 26 of 1950, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, 1281, set out in the Appendix to Title 5. Functions of the Coast Guard, and the Commandant of the Coast Guard, were excepted from transfer when the Coast Guard is operating as part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

The Coast Guard was transferred to the Department of Transportation, and all functions, powers, and duties relating to the Coast Guard of the Secretary of the Treasury and of other officers and offices of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, § 6(b)(1), Oct. 15, 1966, 80 Stat. 938. Section 6(b)(2) of Pub. L. 89-670, however, provided that notwithstanding such transfer of functions, the Coast Guard shall operate as part of the Navy in time of war or when the President directs as provided in section 3 of Title 14, Coast Guard. See section 1655 of Title 49, Transportation.

§§ 746 to 746b. Repealed. Aug. 4, 1949, ch. 393, § 20, 63 Stat. 565

Section 746, act June 29, 1949, ch. 277, § 1, 63 Stat. 299, related to compensation and pay of civilians keepers of lighthouses and civilian employees on Coast Guard vessels.

Section 746a, act June 29, 1949, ch. 277, § 2, 63 Stat. 299, related to extra pay and hours of duty.

Section 746b, act June 29, 1949, ch. 277, § 3, 63 Stat. 300, related to additional compensation as affecting retirement compensation.

EFFECTIVE DATE OF REPEAL

Repeal of sections effective the first day of the third month after the month of approval, August 1949, see section 19 of act Aug. 4, 1949, set out as an Effective Date note preceding chapter 1 of Title 14, Coast Guard.

§§ 747, 747a. Repealed. July 1, 1944, ch. 373, title XIII, § 1313, 58 Stat. 714

Section 747, act Aug. 28, 1916, ch. 414, § 5, 39 Stat. 538, related to medical relief to lighthouse keepers, and is now covered by section 763c of this title. Act Aug. 28, 1916, was also repealed, by act Aug. 4, 1949, ch. 393, § 20, 63 Stat. 561.

Section 747a, act May 22, 1926, ch. 371, § 3, 44 Stat. 626, related to medical relief to lighthouse keepers, and is now covered by section 763c of this title. Act May 22, 1926, was also repealed by act Aug. 4, 1949, ch. 393, § 20, 63 Stat. 561.

RENUMBERING OF REPEALING ACT

Section 611 of act July 1, 1944, which repealed this section, was renumbered § 711 by act Aug. 13, 1946, ch. 958, § 5, 60 Stat. 1049, § 713 by act Feb. 28, 1948, ch. 83, § 9(b), 62 Stat. 47, § 813 by act July 30, 1956, ch. 779, § 3(b), 70 Stat. 720, § 913 by Pub. L. 88-581, § 4(b), Sept. 4, 1964, 78 Stat. 919, § 1013 by Pub. L. 85-239, § 3(b), Oct. 5, 1965, 79 Stat. 931, § 1113 by Pub. L. 91-572, § 6(b), Dec. 24, 1970, 84 Stat. 1506, § 1213 by Pub. L. 92-294, § 3(b), May 16, 1972, 86 Stat. 137; § 1313 by Pub. L. 93-154, § 2(b)(2), Nov. 16, 1973, 87 Stat. 604, and was repealed by Pub. L. 93-222, § 7(b), Dec. 29, 1973, 87 Stat. 936.

§ 747b. Lighthouse keepers; traveling expenses incurred in obtaining medical attention

On and after February 25, 1929, the appropriation, "General expenses, Coast Guard," shall be available, under rules prescribed by the Secretary of Transportation, for paying the actual and necessary traveling expenses of lighthouse keepers at isolated stations incurred in obtaining medical attention.

(Feb. 25, 1929, ch. 313, § 1, 45 Stat. 1261; 1939 Reorg. Plan No. II, § 2(a), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1432; Oct. 15, 1966, Pub. L. 89-670, § 6(b)(1), 80 Stat. 938.)

TRANSFER OF FUNCTIONS

"Coast Guard was substituted for "Lighthouse Service" on authority of Reorg. Plan No. II of 1939, § 2(a), set out in the Appendix to Title 5, Government Organization and Employees, which transferred and consolidated the Bureau of Lighthouses, of which the Lighthouse Service was a part, with the Coast Guard.

For transfer of functions of other officers, employees, and agencies of the Department of the Treasury, with certain exceptions, to the Secretary of the Treasury with power to delegate, see Reorg. Plan No. 26 of 1950, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, 1281, set out in the Appendix to title 5. Functions of the Coast Guard, and the Commandant of the Coast Guard, were excepted from transfer when the Coast Guard is operating as part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

The Coast Guard was transferred to the Department of Transportation, and all functions, powers, and duties relating to the Coast Guard of the Secretary of the Treasury and of other officers and offices of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, § 6(b)(1), Oct. 15, 1966, 80 Stat. 938. Section 6(b)(2) of Pub. L. 89-670, however, provided that notwithstanding such transfer of functions, the Coast Guard shall operate as part of the Navy in time of war or when the President directs as provided in section 3 of Title 14, Coast Guard. See section 1655 of Title 49, Transportation.

§ 748. Teachers for children of lighthouse keepers

The appropriation, "General expenses, Coast Guard," shall be available, under regulations prescribed by the Secretary of Transportation, for the payment of traveling and subsistence expenses of teachers while actually employed by States or private persons to instruct the children of keepers of lighthouses.

(June 20, 1918, ch. 103, § 2, 40 Stat. 608; 1939 Reorg. Plan No. II, § 2(a), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1432; Oct. 15, 1966, Pub. L. 89-670, § 6(b)(1), 80 Stat. 938.)

Transfer of Functions

"Coast Guard was substituted for "Lighthouse Service" on authority of Reorg. Plan No. II of 1939, § 2(a), set out in the Appendix to Title 5, Government Organization and Employees, which transferred and consolidated the Bureau of Lighthouses, of which the Lighthouse Service was a part, with the Coast Guard.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of such Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of such officers, agencies, and employees, by Reorg. Plan No. 26 of 1950, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees.

The Coast Guard was transferred to the Department of Transportation, and all functions, powers, and duties relating to the Coast Guard of the Secretary of the Treasury and of other officers and offices of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, § 6(b)(1), Oct. 15, 1966, 80 Stat. 938. Section 6(b)(2) of Pub. L. 89-670, however, provided that notwithstanding such transfer of functions, the Coast Guard shall operate as part of the Navy in time of war or when the President directs as provided in section 3 of Title 14, Coast Guard. See section 1655 of Title 49, Transportation.

§ 748a. Transportation expenses for school children

In all appropriations hereafter made for "General expenses, Coast Guard" there is authorized to be made available not exceeding $2,500 in any fiscal year, for the transportation, under regulations prescribed by the Secretary of Transportation, of the children of lighthouse keepers at isolated light stations where necessary to enable such children to attend school.

(May 13, 1938, ch. 215, § 2, 52 Stat. 353; 1939 Reorg. Plan No. II, § 2(a), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1432; Oct. 15, 1966, Pub. L. 89-670, § 6(b)(1), 80 Stat. 938.)

Transfer of Functions

"Coast Guard was substituted for "Lighthouse Service" on authority of Reorg. Plan No. II of 1939, § 2(a), set out in the Appendix to Title 5, Government Organization and Employees, which transferred and consolidated the Bureau of Lighthouses, of which the Lighthouse Service was a part, with the Coast Guard.

For transfer of functions of other officers, employees, and agencies of the Department of the Treasury, with certain exceptions, to the Secretary of the Treasury with power to delegate, see Reorg. Plan No. 26 of 1950, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, 1281, set out in the Appendix to Title 5. Functions of the Coast Guard, and the Commandant of the Coast Guard, were excepted from transfer when the Coast Guard is operating as part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

The Coast Guard was transferred to the Department of Transportation, and all functions, powers, and duties relating to the Coast Guard of the Secretary of the Treasury and of other officers and offices of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, § 6(b)(1), Oct. 15, 1966, 80 Stat. 938. Section 6(b)(2) of Pub. L. 89-670, however, provided that notwithstanding such transfer of functions, the Coast Guard shall operate as part of the Navy in time of war or when the President directs as provided in section 3 of Title 14, Coast Guard. See section 1655 of Title 49, Transportation.

§ 749. Repealed. Aug. 4, 1949, ch. 393, § 20, 63 Stat. 561

Section, acts July 27, 1912, ch. 255, § 2, 37 Stat. 239; Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736, related to reimbursement of lighthouse keepers for clothing, etc., furnished shipwrecked persons. See now section 486 of Title 14, Coast Guard.

Effective Date of Repeal

Repeal of section effective the first day of the third month after the month of approval, August 1949, see section 19 of act Aug. 4, 1949, set out as an Effective Date preceding chapter 1 of Title 14, Coast Guard.

§ 750. Repealed. Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 642

Section, act Aug. 1, 1914, ch. 223, § 1, 38 Stat. 658, related to leaves of absence to employees of Lighthouse Service.

§§ 751 to 752a. Repealed. Aug. 4, 1949, ch. 393, § 20, 63 Stat. 561

Section 751, act Mar. 3, 1915, ch. 81, § 4, 38 Stat. 927, related to leave of absence to employees of Lighthouse Service. See now section 6301 et seq. of Title 5, Government Organization and Employees.

Section 752, acts Mar. 4, 1913, ch. 168, 37 Stat. 1019; Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736, related to sale of condemned supplies, etc., and land not used; disposition of funds. See now section 93 of Title 14, Coast Guard.

Section 752a, act May 22, 1926, ch. 371, § 5, 44 Stat. 626, related to sale of equipment; disposition of receipts. See now section 641 of Title 14, Coast Guard.

Effective Date of Repeal

Repeal of sections effective the first day of the third month after the month of approval, August 1949, see section 19 of act Aug. 4, 1949, set out as an Effective Date note preceding chapter 1 of Title 14, Coast Guard.

§ 752b. Omitted

CODIFICATION

Section, act June 15, 1938, ch. 398, 52 Stat. 692, which related to disposal of materials to the Boys Scouts of America, was omitted from the Code as obsolete. See now section 641 of Title 14, Coast Guard.

§§ 753, 754. Repealed. Aug. 4, 1949, ch. 393, § 20, 63 Stat. 561

Section 753, act June 20, 1918, ch. 103, § 4, 40 Stat. 608, related to sale of publications of Lighthouse Service. See now sections 1705, 1708 of Title 44, Public Printing and Documents.

Section 754, acts July 27, 1912, ch. 255, § 2, 37 Stat. 239; Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736, related to sale of clothing to employees. See now section 485 of Title 14, Coast Guard.

EFFECTIVE DATE OF REPEAL

Repeal of sections effective as of the first day of the third month after the month of approval, August 1949, see section 19 of act Aug. 4, 1949, set out as an Effective Date note preceding chapter 1 of Title 14, Coast Guard.

§ 754a. Purchase of commissary and quartermaster supplies

Officers and crews of vessels of the Lighthouse Service and light keepers and depot keepers of the Lighthouse Service shall be permitted to purchase commissary and quartermaster supplies from the Army, Navy, or Marine Corps at the price charged officers and enlisted men of the Army, Navy, or Marine Corps.

(May 22, 1926, ch. 371, § 4, 44 Stat. 626.)

TRANSFER OF FUNCTIONS

The Bureau of Lighthouses, of which the Lighthouse Service was a part, was transferred and consolidated with the Coast Guard by Reorg. Plan No. II of 1939, § 2(a), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1432, set out in the Appendix to Title 5, Government Organization and Employees.

For transfer of functions of other officers, employees, and agencies of the Department of the Treasury, with certain exceptions, to the Secretary of the Treasury with power to delegate, see Reorg. Plan No. 26 of 1950, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, 1281, set out in the Appendix to title 5. Functions of the Coast Guard, and the Commandant of the Coast Guard, were excepted from transfer when the Coast Guard is operating as part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

The Coast Guard was transferred to the Department of Transportation, and all functions, powers, and duties relating to the Coast Guard of the Secretary of the Treasury and of other officers and offices of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, § 6(b)(1), Oct. 15, 1966, 80 Stat. 938. Section 6(b)(2) of Pub. L. 89-670, however, provided that notwithstanding such transfer of functions, the Coast Guard shall operate as part of the Navy in time of war or when the President directs as provided in section 3 of Title 14, Coast Guard. See section 1655 of Title 49, Transportation.

§§ 755 to 762. Repealed. Aug. 4, 1949, ch. 393, § 20, 63 Stat. 561

Section 755, act June 16, 1880, ch. 235, 21 Stat. 263, related to police powers of masters of Lighthouse Service. See now section 89 of Title 14, Coast Guard.

Section 756, act Mar. 3, 1915, ch. 81, § 6, 38 Stat. 928, related to use of appropriations with Forest Service. See now section 141 of Title 14, Coast Guard.

Section 757, act Aug. 29, 1916, ch. 417, 39 Stat. 602, related to cooperation with Army and Navy Departments in time of or in preparation for war. See now sections 3, 88, 92, 93, 141, 144, 145, and 632 of Title 14, Coast Guard.

Section 758, act Aug. 29, 1916, ch. 417, 39 Stat. 602, related to transfer of vessels, equipment, etc., to Navy or Army Departments in case of vocational emergency. See now sections 3, 88, 92, 93, 141, 144, 145, and 632 of Title 14, Coast Guard.

Section 759, acts June 20, 1906, ch. 3447, § 3, 34 Stat. 324; June 17, 1910, ch. 301, § 6, 36 Stat. 538, related to unauthorized establishment of lights and penalty. See now section 83 of Title 14, Coast Guard.

Section 760, act May 14, 1908, ch. 168, § 5, 35 Stat. 162, related to failure to maintain lights on bridges and penalty. See now section 85 of Title 14, Coast Guard.

Section 761, acts May 14, 1908, ch. 168, § 6, 35 Stat. 162; June 17, 1910, ch. 301, § 6, 36 Stat. 538, related to wrongful interference with Government aids to navigation and penalty. See now section 84 of Title 14, Coast Guard.

Section 762, act Mar. 3, 1915, ch. 81, § 8, 38 Stat. 928, related to wrongful interference with private aids to navigation and penalty. See now section 84 of Title 14, Coast Guard.

EFFECTIVE DATE OF REPEAL

Repeal of sections effective the first day of the third month after the month of approval, August 1949, see section 19 of act Aug. 4, 1949, set out as an Effective Date note preceding chapter 1 of Title 14, Coast Guard.

§ 763. Retirement for age of officers and employees generally; retirement pay; waiver of retirement pay

All officers and employees engaged in the field service or on vessels of the Lighthouse Service, except persons continuously employed in district offices or shop, who (1) shall have reached the age of fifty-five years, after having been thirty years in the active service of the Government, (2) shall have reached the age of sixty-two years, after having been twenty-five years in the active service of the Government, or (3) are involuntarily separated from further performance of duty, except by removal for cause on charges of misconduct or delinquency, after completing twenty-five years in the active service of the Government, or after completing twenty years of such service and after reaching the age of fifty years, may at their option be retired from further performance of duty; and all such officers and employees who shall have reached the age of seventy years shall be compulsorily retired from further performance of duty: *Provided,* That the annual compensation of persons so retired shall be a sum equal to one-fortieth of the average annual pay received for the last three years of service for each year of active service in the Lighthouse Service, or in a department or branch of the Government having a retirement system, not to exceed in any case thirty-fortieths of such average annual pay received: *Provided further,* That the retirement pay computed under the preceding proviso for any such officer or employee retiring under clause (3) shall be reduced by one-sixth of 1 per centum for each full month the officer or employee is under fifty-five years of age at the date of retirement: *Provided further,* That such retirement pay shall not include any amount on account of subsistence or other allowance: *Provided further,* That the retire-

ment provisions and pay shall not apply to persons in the field service of the Lighthouse Service whose duties do not require substantially all their time. Any person entitled to retirement pay under this section may decline to accept all or any part of such retirement pay by a waiver signed and filed with the Secretary of the Treasury. Such waiver may be revoked in writing at any time, but no payment of the retirement pay waived shall be made covering the period during which such waiver was in effect.

(June 20, 1918, ch. 103, § 6, 40 Stat. 608; Nov. 4, 1918, ch. 201, § 1, 40 Stat. 1036; June 21, 1955, ch. 170, § 1, 69 Stat. 166; Aug. 14, 1957, Pub. L. 85-142, 71 Stat. 365; Nov. 29, 1967, Pub. L. 90-164, § 1, 81 Stat. 519; Oct. 2, 1972, Pub. L. 92-455, § 6(a), 86 Stat. 761.)

CODIFICATION

Except for the last proviso this section was from act June 20, 1918. The last proviso was from act Nov. 4, 1918, the First Deficiency Appropriation Act, 1919.

AMENDMENTS

1972—Pub. L. 92-455 inserted cl. (3), substituted "three" for "five" years of service in first proviso, and added proviso for reduction of retirement pay computed under cl. (3) by one-sixth of 1 per centum for each full month the officer or employee is under fifty-five years of age at the date of retirement.

1967—Pub. L. 90-164 lowered the voluntary retirement age from sixty to fifty-five years for those officers and employees having thirty years of active service.

1957—Pub. L. 85-142 added provisions allowing waiver of retirement pay.

1955—Act June 21, 1955, permitted retirement of officers and employees who have attained 60 years of age and have served for 30 years, or who have reached 62 years of age and have served for 25 years.

EFFECTIVE DATE OF 1972 AMENDMENT

Section 6(b) of Pub. L. 92-455 provided that: "The amendments made by subsection (a) of this section [to this section] shall apply with respect to officers and employees to which such section 6 [amending this section] applies who are involuntarily separated or retired on or after the date of the enactment of this Act [Oct. 2, 1972]."

EFFECTIVE DATE OF 1967 AMENDMENT

Section 2 of Pub. L. 90-164 provided that: "The amendment made by this Act [to this section] shall take effect on the first day of the second month which begins after the date of enactment of this Act [Nov. 29, 1967]."

EFFECTIVE DATE OF 1955 AMENDMENT

Section 2 of act June 21, 1955, provided that: "This Act [amending this section] shall take effect on the first day of the second month beginning after the date of enactment of this Act [June 21, 1955]."

TRANSFER OF FUNCTIONS

The Bureau of Lighthouses, of which the Lighthouse Service was a part, was transferred and consolidated with the Coast Guard by Reorg. Plan No. II of 1939, § 2(a), eff July 1, 1939, 4 F.R. 2731, 53 Stat. 1432, set out in the Appendix to Title 5, Government Organization and Employees.

For transfer of functions of other officers, employees, and agencies of the Department of the Treasury, with certain exceptions, to the Secretary of the Treasury with power to delegate, see Reorg. Plan No. 26 of 1950, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, 1281, set out in the Appendix to Title 5. Functions of the Coast Guard, and the Commandant of the Coast Guard, were excepted from transfer when the Coast Guard is operating as part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

The Coast Guard was transferred to the Department of Transportation, and all functions, powers, and duties relating to the Coast Guard of the Secretary of the Treasury and of other officers and offices of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, § 6(b)(1), Oct. 15, 1966, 80 Stat. 938. Section 6(b)(2) of Pub. L. 89-670, however, provided that notwithstanding such transfer of functions, the Coast Guard shall operate as part of the Navy in time of war or when the President directs as provided in section 3 of Title 14, Coast Guard. See section 1655 of Title 49, Transportation.

INCREASE OF PAY OF PERSONS RETIRED PRIOR TO 1967

Pub. L. 90-165, Nov. 29, 1967, 81 Stat. 519, provided: "That effective on the first day of the first month which begins after the date of enactment of this Act [Nov. 29, 1967], the annual rate of retired pay of a person retired under section 6 of the Act of June 20, 1918 (33 U.S.C. 763), shall be increased by 11.3 per centum if such person retired prior to January 1, 1966, or by 4.1 per centum if such person retired after December 31, 1965, but before January 1, 1967."

INCREASE OF PAY OF PERSONS RETIRED PRIOR TO 1963

Pub. L. 89-201, Sept. 25, 1965, 79 Stat. 834, provided: "That the annual rate of retired pay of each person retired prior to January 1, 1963, under section 6 of the Act of June 20, 1918, as amended and supplemented [this section], shall be increased by 6.5 per centum, effective on the first day of the first calendar month following the date of enactment of this Act [Sept. 25, 1965]."

INCREASE OF PAY OF PERSONS RETIRED PRIOR TO 1958

Pub. L. 86-361, Sept. 22, 1959, 73 Stat. 643, provided: "That the annual rate of retired pay of each person retired prior to January 1, 1958, under section 6 of the Act of June 20, 1918, as amended and supplemented [this section], shall be increased, effective on the first day of the first calendar month following the date of enactment of this Act [Sept. 22, 1959], by 10 per centum, or $150 per annum, whichever is the greater."

INCREASE OF PAY OF PERSONS RETIRED ON OR BEFORE OCTOBER 1, 1972

Pub. L. 94-178, Dec. 23, 1975, 89 Stat. 1033, provided: "That the annual rate of retired pay received by a person under section 6 of the Act of June 20, 1918, as amended and supplemented (33 U.S.C. 736-765), who was retired on or before October 1, 1972, shall, effective on the first day of the calendar month following enactment of this Act [Dec. 23, 1975], be increased by $270."

INCREASE OF PAY OF PERSONS RETIRED PRIOR TO 1953

Act Aug. 27, 1954, ch. 1010, 68 Stat. 878, as amended May 11, 1955, ch. 36, 69 Stat. 47, provided: "That the annual rate of retired pay received by any person who was retired on or before June 30, 1953, under section 6 of the Act of June 20, 1918, as amended and supplemented (section 763 of this title), shall be increased, effective on the first day of the calendar month following enactment of this Act, by 15 per centum of $264, whichever is the lesser: *Provided*, That no retired pay shall be increased to an amount in excess of $2,160 by reason of this Act."

COST-OF-LIVING ADJUSTMENT TO RETIREE'S ANNUITY

Adjustment of annuities of retired officers and employees based on cost-of-living increases, see section 2 of Pub. L. 90-163, Nov. 29, 1967, 81 Stat. 518, set out as a note under section 771 of this title.

CROSS REFERENCES

Personnel of former Lighthouse Service, see section 432 of Title 14, Coast Guard.

Retirement of Coast Guard personnel, see section 221 et seq. of Title 14.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 763-1, 763-2, 763a-1, 765, 766, 771 of this title; title 14 section 432; title 42 section 253b.

§ 763-1. Increase of retired pay

The annual rate of retired pay received by any person who was retired on or before June 29, 1949, under section 763 of this title, as amended and supplemented, shall be increased by $360 effective on the first day of the calendar month following October 29, 1949.

(Oct. 29, 1949, ch. 788, 63 Stat. 1026.)

§ 763-2. Additional increase of retired pay

The annual rate of retired pay of each person retired under section 763 of this title, as amended and supplemented, shall be increased, effective on the first day of the first calendar month following July 9, 1956, in accordance with the following schedule:

If retired pay commences between—	Retired pay not in excess of $1,500 shall be increased by—	Retired pay in excess of $1,500 shall be increased by—
June 20, 1918, and June 30, 1955.	12 per centum.....	8 per centum.
July 1, 1955, and December 31, 1955.	10 per centum.....	7 per centum.
January 1, 1956, and June 30, 1956.	8 per centum.....	6 per centum.
July 1, 1956, and December 31, 1956.	6 per centum.....	4 per centum.
January 1, 1957, and June 30, 1957.	4 per centum.....	2 per centum.
July 1, 1957, and December 31, 1957.	2 per centum.....	1 per centum.

Such annual increase in retired pay shall not exceed the sum necessary to increase such retired pay to $4,104. The monthly installment of each retired payment so increased shall be fixed at the nearest dollar.

(July 9, 1956, ch. 524, 70 Stat. 510.)

§ 763a. Repealed. Aug. 4, 1949, ch. 393, § 20, 63 Stat. 561

Section, act May 22, 1926, ch. 371, § 7, 44 Stat. 626, related to retirement of certain officers and employees of the Lighthouse Service.

EFFECTIVE DATE OF REPEAL

Repeal of section effective the first day of the third month after the month of approval, August 1949, see section 19 of act Aug. 4, 1949, set out as an Effective Date note preceding chapter 1 of Title 14, Coast Guard.

§ 763a-1. Retirement, exceptions for age and period of service

Any officer or employee of the Lighthouse Service who, on June 30, 1939, meets the requirements (except those relating to age and period of service) of section 763 of this title, as amended or supplemented, and who shall (1) reach the age of sixty-four years prior to July 1, 1940, or (2) be the occupant of an office or position abolished prior to July 1, 1940, may in the discretion of the head of his executive department be retired with annual compensation as provided in said section: *Provided, however,* That no such officer or employee shall be retired hereunder unless he shall have been in the service of the Government not less than thirty years at the time of retirement. Any officer or employee to whom this section applies who is not retired hereunder prior to reaching the age of sixty-five years shall, upon reaching such age, become eligible for retirement in accordance with the provisions of said section 763 of this title, and may not be retired under the provisions of this section. Nothing contained in this section shall be construed to affect the application of said section to any officer or employee of the Lighthouse Service to whom this section does not apply.

(Aug. 10, 1939, ch. 642, 53 Stat. 1343.)

TRANSFER OF FUNCTIONS

The Bureau of Lighthouses, of which the Lighthouse Service was a part, was transferred and consolidated with the Coast Guard by Reorg. Plan No. II of 1939, § 2(a), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1432, set out in the Appendix to Title 5, Government Organization and Employees.

For transfer of functions of other officers, employees, and agencies of the Department of the Treasury, with certain exceptions, to the Secretary of the Treasury with power to delegate, see Reorg. Plan No. 26 of 1950, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, 1281, set out in the Appendix to title 5. Functions of the Coast Guard, and the Commandant of the Coast Guard, were excepted from transfer when the Coast Guard is operating as part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

The Coast Guard was transferred to the Department of Transportation, and all functions, powers, and duties relating to the Coast Guard of the Secretary of the Treasury and of other officers and offices of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, § 6(b)(1), Oct. 15, 1966, 80 Stat. 938. Section 6(b)(2) of Pub. L. 89-670, however, provided that notwithstanding such transfer of functions, the Coast Guard shall operate as part of the Navy in time of war or when the President directs as provided in section 3 of Title 14, Coast Guard. See section 1655 of Title 49, Transportation.

CROSS REFERENCES

Retirement of Coast Guard personnel, see section 221 et seq. of Title 14, Coast Guard.

§ 763a-2. Application to persons of Coast Guard

The provisions of sections 763 and 763a-1 of this title shall not apply to persons of the Coast Guard other than officers and employees of the former Lighthouse Service who, on June 30, 1939, met the requirements for retirement (except those relating to age and period of service) of said sections.

(June 6, 1940, ch. 257, § 7, 54 Stat. 247.)

CODIFICATION

Sections 763 and 763a-1 of this title, referred to in text, was, in the original: "The provisions of section 6 of the Act approved June 20, 1918 (40 Stat. 608), as amended and supplemented (U.S.C., 1934 edition, Supp. V., title 33, secs. 763 and 763a-1)".

TRANSFER OF FUNCTIONS

The Bureau of Lighthouses, of which the Lighthouse Service was a part, was transferred and consolidated with the Coast Guard by Reorg. Plan No. II of 1939, § 2(a), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1432, set out in the Appendix to Title 5, Government Organization and Employees.

For transfer of functions of other officers, employees, and agencies of the Department of the Treasury, with certain exceptions, to the Secretary of the Treasury with power to delegate, see Reorg. Plan No. 26 of 1950, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, 1281, set out in the Appendix to title 5. Functions of the Coast Guard, and the Commandant of the Coast Guard, were excepted from transfer when the Coast Guard is operating as part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

The Coast Guard was transferred to the Department of Transportation, and all functions, powers, and duties relating to the Coast Guard of the Secretary of the Treasury and of other officers and offices of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, § 6(b)(1), Oct. 15, 1966, 80 Stat. 938. Section 6(b)(2) of Pub. L. 89-670, however, provided that notwithstanding such transfer of functions, the Coast Guard shall operate as part of the Navy in time of war or when the President directs as provided in section 3 of Title 14, Coast Guard. See section 1655 of Title 49, Transportation.

CROSS REFERENCES

For other provisions relating to section 763 of this title, see sections 763a-1, 765, and 766 of this title.

§ 763b. Repealed. July 1, 1944, ch. 373, title XIII, § 1313, 58 Stat. 714

Section, act June 24, 1930, ch. 597, 46 Stat. 807, as affected by 1939 Reorg. Plans Nos. I, §§ 201, 205, and II, § 2(a), eff. July 1, 1939, 4 F.R. 2728, 2731, 53 Stat. 1424, 1432, which provided for hospital facilities for retired officers and employees of former Lighthouse Service.

RENUMBERING OF REPEALING ACT

Section 611 of act July 1, 1944, which repealed this section, was renumbered § 711 by act Aug. 13, 1946, ch. 958, § 5, 60 Stat. 1049, § 713 by act Feb. 28, 1948, ch. 83, § 9(b), 62 Stat. 47, § 813 by act July 30, 1956, ch. 779, § 3(b), 70 Stat. 720, § 913 by Pub. L. 88-581, § 4(b), Sept. 4, 1964, 78 Stat. 919, § 1013 by Pub. L. 85-239, § 3(b), Oct. 5, 1965, 79 Stat. 931, § 1113 by Pub. L. 91-572, § 6(b), Dec. 24, 1970, 84 Stat. 1506, § 1213 by Pub. L. 92-294, § 3(b), May 16, 1972, 86 Stat. 137; § 1313 by Pub. L. 93-154, § 2(b)(2), Nov. 16, 1973, 87 Stat. 604, and was repealed by Pub. L. 93-222, § 7(b), Dec. 29, 1973, 87 Stat. 936.

§ 763c. Repealed. Pub. L. 93-222, § 7(b), Dec. 29, 1973, 87 Stat. 936

Section, act July 1, 1944, ch. 373, title XIII, § 1310(b), formerly title VI, § 610(b), 58 Stat. 714, renumbered title VII, § 710(b), by act Aug. 13, 1946, ch. 958, § 5, 60 Stat. 1049, renumbered title VIII, § 810(b), by act July 30, 1956, ch. 779, § 3(b), 70 Stat. 721, renumbered title IX, § 910(b), by Pub. L. 88-581, § 4(b), Sept. 4, 1964, 78 Stat. 919, renumbered title X, § 1010(b), by Pub. L. 89-239, § 3(b), Oct. 6, 1965, 79 Stat. 931, renumbered title XI, § 1110(b) by Pub. L. 91-572, § 6(b), Dec. 24, 1970, 84 Stat. 1506, renumbered title XII, § 1210(b) by Pub. L. 92-294, § 3(b), May 16, 1972, 86 Stat. 137, renumbered title XIII, § 1310(b), by Pub. L. 93-154, § 2(b)(2), Nov. 16, 1973, 87 Stat. 604, made provision for hospital facilities for officers and employees.

§ 764. Omitted

CODIFICATION

Section, act Mar. 4, 1921, ch. 161, § 1, 41 Stat. 1417, which related to the privilege granted employees of continuing service after retirement and which was limited to a ten year period after Mar. 4, 1921, was omitted from the Code as executed.

§ 765. Retirement for disability

Any officer or employee to whom section 763 of this title applies, who has been in the active service of the Government fifteen years or more and who is found, after examination by a medical officer of the United States, to be disabled for useful and efficient service by reason of disease or injury not due to vicious habits, intemperance, or willful misconduct on his part, shall be retired under rules to be prescribed by the Secretary of Transportation on an annuity computed in the manner provided in said section.

(Mar. 4, 1925, ch. 523, § 1, 43 Stat. 1261; 1939 Reorg. Plan No. II, § 2(a), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1432; Oct. 15, 1966, Pub. L. 89-670, § 6(b)(1), 80 Stat. 938.)

TRANSFER OF FUNCTIONS

The officers or employees to be retired refer to the officers and employees of the Lighthouse Service. The Lighthouse Service was under the Secretary of Commerce prior to the transfer and consolidation of the Bureau of Lighthouses, of which the Lighthouse Service was a part, with the Coast Guard which was under the Secretary of the Treasury by Reorg. Plan No. II, § 2(a), set out in the Appendix to Title 5, Government Organization and Employees. Subsequently, the functions of the Secretary of the Treasury relating to the Coast Guard were transferred to the Secretary of Transportation by section 6(b)(1) of Pub. L. 89-670.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 766 of this title.

§ 766. Restoration to active duty after retirement for disability

Any officer or employee retired under section 765 of this title may, upon recovery, be restored to active duty, and shall from time to time, before reaching the age at which he may be retired under section 763 of this title be reexamined by a medical officer of the United States upon the request of the Secretary of Transportation.

(Mar. 4, 1925, ch. 523, § 2, 43 Stat. 1262; 1939 Reorg. Plan No. II, § 2(a), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1432; Oct. 15, 1966, Pub. L. 89-670, § 6(b)(1), 80 Stat. 938.)

TRANSFER OF FUNCTIONS

The officers or employees to be retired refer to the officers and employees of the Lighthouse Service. The Lighthouse Service was under the Secretary of Commerce prior to the transfer and consolidation of the Bureau of Lighthouses, of which the Lighthouse Service was a part, with the Coast Guard which was under the Secretary of the Treasury by Reorg. Plan No. II, § 2(a), set out in the Appendix to Title 5, Government Organization and Employees. Subsequently, the functions of the Secretary of the Treasury relating to the Coast Guard were transferred to the Secretary of Transportation by section 6(b)(1) of Pub. L. 89-670.

§§ 767 to 769. Repealed. Aug. 4, 1949, ch. 393, § 20, 63 Stat. 561

Section 767, acts Mar. 3, 1915, ch. 81, § 7, 38 Stat. 928; June 20, 1918, ch. 103, § 7, 40 Stat. 608, related to the administration of oaths to employees of the Lighthouse Service.

Section 768, acts Aug. 24, 1912, ch. 355, § 8, 37 Stat. 487; Mar. 3, 1915, ch. 81, § 7, 38 Stat. 928; June 20, 1918, ch. 103, § 7, 40 Stat. 608; June 6, 1939, ch. 185, 53 Stat. 810, related to oaths to expense accounts.

Section 769, act Feb. 25, 1929, ch. 313, § 3, 45 Stat. 1262, related to aids to navigation in Panama. See now section 81 of Title 14, Coast Guard.

EFFECTIVE DATE OF REPEAL

Repeal of sections effective the first day of the third month after the month of approval, August 1949, see section 19 of act Aug. 4, 1949, set out as an Effective Date note preceding chapter 1 of Title 14, Coast Guard.

§ 770. Regulations for expenditure of moneys accruing from commutation of rations and provisions

Money accruing from commutation of rations and provisions for working parties in the field, officers and crews of light vessels and tenders, and officials and other authorized persons on board of such tenders or vessels, after payment on proper vouchers to the officer in charge of the mess of such vessel or party, as provided by law, may be expended and accounted for pursuant to regulations prescribed by the Secretary of Transportation, notwithstanding the provisions of section 725s of title 31.

(May 13, 1938, ch. 215, § 3, 52 Stat. 353; 1939 Reorg. Plan No. II, § 2(a), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1432; Oct. 15, 1966, Pub. L. 89-670, § 6(b)(1), 80 Stat. 938.)

TRANSFER OF FUNCTIONS

The money accruing from commutation of rations and provisions refer to such moneys of persons in the Lighthouse Service. The Lighthouse Service was under the Secretary of Commerce prior to the transfer and consolidation of the Bureau of Lighthouses, of which the Lighthouse Service was a part, with the Coast Guard which was under the Secretary of the Treasury by Reorg. Plan No. II, § 2(a), set out in the Appendix to Title 5, Government Organization and Employees. Subsequently, the functions of the Secretary of the Treasury relating to the Coast Guard were transferred to the Secretary of Transportation by section 6(b)(1) of Pub. L. 89-670.

§ 771. Benefits for widows of Lighthouse Service personnel; death of employee during retirement; amount of payment

Where—

(1) any former employee of the Lighthouse Service has died or shall hereafter die at a time when he was receiving or was entitled to receive retirement pay under section 763 of this title, as amended and supplemented, and

(2) such former employee is survived by a widow who married him prior to his retirement from the Lighthouse Service and has not since remarried—

such widow, so long as she does not remarry, shall be paid $100 per month by the Secretary of Transportation.

(Aug. 19, 1950, ch. 761, § 1, 64 Stat. 465; Mar. 28, 1958, Pub. L. 85-351, § 1, 72 Stat. 49; Oct. 15, 1966, Pub. L. 89-670, § 6(b)(1), 80 Stat. 938; Nov. 29, 1967, Pub. L. 90-163, § 1, 81 Stat. 518; Nov. 29, 1967, Pub. L. 90-167, § 1(a), 81 Stat. 520.)

AMENDMENTS

1967—Pub. L. 90-167 struck out provision which exempted from coverage of this section widows of employees whose positions were classified in one of the grades of the professional and scientific service of the Classification Act of 1923, or a comparable grade of the Classification Act of 1949, or who performed duties of a position comparable to a position so classified after the enactment of law requiring the classification of such positions.

Pub. L. 90-163 substituted "$100 per month" for "$75 per month".

1958—Pub. L. 85-351 substituted "$75" for "$50" in last sentence.

EFFECTIVE DATE OF 1967 AMENDMENTS

Section 2 of Pub. L. 90-167 provided that: "No payment shall be made by reason of the amendments made by this section [to this section and section 772 of this title] for any period prior to the first day of the first month following the month in which this Act is enacted [Nov. 29, 1967]."

Section 1 of Pub. L. 90-163 provided in part that the amendments to this section and section 772 of this title by section 1 of Pub. L. 90-163 shall become effective on the first day of the month following Nov. 29, 1967.

EFFECTIVE DATE OF 1958 AMENDMENT

Section 2 of Pub. L. 85-351 provided that: "The amendments made by this Act [amending this section and section 772 of this title] shall take effect on the first day of the first month which begins after the date of the enactment of this Act [Mar. 28, 1958]."

EFFECTIVE DATE

Section 6 of act Aug. 19, 1950, provided that: "No payment shall be made under this Act [sections 771 to 775 of this title] for any period prior to the first day of the first month following the month in which this Act is enacted."

TRANSFER OF FUNCTIONS

The Bureau of Lighthouses, of which the Lighthouse Service was a part, was transferred and consolidated with the Coast Guard under the Secretary of the Treasury by Reorg. Plan No. II of 1939, § 2(a), eff. July 1, 1939, 4 F.R. 2731, 33 Stat. 1432, set out in the Appendix to Title 5, Government Organization and Employees. The functions of the Secretary of the Treasury relating to the Coast Guard were transferred to the Secretary of Transportation by section 6(b)(1) of Pub. L. 89-670.

INCREASE IN WIDOWS BENEFITS AND EFFECTIVE DATE OF INCREASE

Pub. L. 94-170, Dec. 23, 1975, 89 Stat. 1022, provided: "That the benefits payable under section 1 or section 2 of the Act of August 19, 1950 (64 Stat. 465, 466), as amended (33 U.S.C. 771, 772) shall, effective on the first day of the calendar month following enactment of this Act [Dec. 23, 1975], be increased by $26 per month.

"SEC. 2. The increases under this Act shall apply to benefits which commence before, on, or after the date of enactment of this Act [Dec. 23, 1975], but no increase in benefits shall be paid for any period prior to the date of enactment of this Act [Dec. 23, 1975], or the date on which the eligibility for benefits commences, whichever is later."

COST-OF-LIVING ADJUSTMENT TO WIDOW'S ANNUITY

Section 2 of Pub. L. 90-163 provided that: "Each annuity payable under the Act entitled 'An Act to provide benefits for widows of certain persons who were retired or are eligible for retirement under section 6 of the Act entitled "An Act to authorize aids to navigation and for other works in the Lighthouse Service, and for other purposes", approved June 20, 1918, as amended', approved August 19, 1950 (33 U.S.C. 771-775), and each annuity payable under section 6 of the Act entitled 'An Act to authorize aids to navigation and for other works in the Lighthouse Service, and for other purposes', approved June 20, 1918 (33 U.S.C.

763), shall be increased by the same percentage, adjusted to the nearest dollar, and on the same effective date, as each increase hereafter allowed under the cost-of-living annuity adjustment provisions of section 8340(b) of title 5, United States Code."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 773, 774, 775, 776 of this title.

§ 772. Death of employee due to non-service-connected causes after 15 years' service; amount of payment

Where—

(1) any employee of the Lighthouse Service has died or shall hereafter die from non-service-connected causes after fifteen or more years of employment in such service, and

(2) such employee is survived by a widow who has not since remarried,

such widow, so long as she does not marry, shall be paid $100 per month by the Secretary of Transportation.

(Aug. 19, 1950, ch. 761, § 2, 64 Stat. 466; Mar. 28, 1958, Pub. L. 85-351, § 1, 72 Stat. 49; Oct. 15, 1966, Pub. L. 89-670, § 6(b)(1), 80 Stat. 938; Nov. 29, 1967, Pub. L. 90-163, § 1, 81 Stat. 518; Nov. 29, 1967, Pub. L. 90-167, § 1(b), 81 Stat. 520.)

AMENDMENTS

1967—Pub. L. 90-167 struck out provisions which exempted from coverage of this section widows of employees whose positions were classified in one of the grades of the professional and scientific service of the Classification Act of 1923, or a comparable grade of the Classification Act of 1949, or who performed duties of a position comparable to a position so classified after the enactment of law requiring the classification of such positions.

Pub. L. 90-163 substituted "$100 per month" for "$75 per month".

1958—Pub. L. 85-351 substituted "$75" for "$50" in last sentence.

EFFECTIVE DATE OF 1967 AMENDMENTS

Amendment by Pub. L. 90-167 effective for any period subsequent to the first day of the first month following Nov. 29, 1967, see section 2 of Pub. L. 90-167, set out as an Effective Date of 1967 Amendment note under section 771 of this title.

Amendment by Pub. L. 90-163 effective on the first day of the first month following Nov. 29, 1967, see section 1 of Pub. L. 90-163, set out as an Effective Date of 1967 Amendments note under section 771 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment effective Apr. 1, 1958, see section 2 of Pub. L. 85-351, set out as an Effective Date of 1958 Amendment note under section 771 of this title.

TRANSFER OF FUNCTIONS

The Bureau of Lighthouses, of which the Lighthouse Service was a part, was transferred and consolidated with the Coast Guard under the Secretary of the Treasury by Reorg. Plan No. II of 1939, § 2(a), eff. July 1, 1939, 4 F.R. 2731, 33 Stat. 1432, set out in the Appendix to Title 5, Government Organization and Employees. The functions of the Secretary of the Treasury relating to the Coast Guard were transferred to the Secretary of Transportation by section 6(b)(1) of Pub. L. 89-670.

INCREASE IN WIDOWS BENEFITS AND EFFECTIVE DATE OF INCREASE

For 1975 increase in widows benefits under this section and section 771 of this title, and effective date of such increase, see Pub. L. 94-170, Dec. 23, 1975, 89 Stat. 1022, set out as a note under section 771 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 773, 774, 775, 776 of this title.

§ 773. Application for benefits

Application for the benefits of sections 771 to 775 of this title shall be made in such manner and form as the Civil Service Commission shall prescribe.

(Aug. 19, 1950, ch. 761, § 3, 64 Stat. 466.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 774, 775, 776 of this title.

§ 774. Rules and regulations

The Civil Service Commission shall perform, or cause to be performed, such acts, and shall make such rules and regulations, as may be necessary or proper to carry out the provisions of sections 771 to 775 of this title.

(Aug. 19, 1950, ch. 761, § 4, 64 Stat. 466.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 773, 775, 776 of this title.

§ 775. Payments nonassignable and exempt from process

No payment under sections 771 to 775 of this title shall be assignable, either in law or in equity, or be subject to execution, levy, lien, attachment, garnishment, or other legal process.

(Aug. 19, 1950, ch. 761, § 5, 64 Stat. 466.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 773, 774, 776 of this title.

§ 776. Payment out of Civil Service retirement and disability fund

Annuities authorized by sections 771 to 775 of this title may, on and after July 14, 1976, be paid out of the Civil Service retirement and disability fund.

(Pub. L. 94-363, title IV, § 401, July 14, 1976, 90 Stat. 969.)

SIMILAR PROVISIONS

Section is from the Treasury, Postal Service, and General Government Appropriation Act, 1977, Pub. L. 94-363. Similar provisions were contained in the following prior Appropriation Acts:

Pub. L. 94-91, title IV, § 400, Aug. 9, 1975, 89 Stat. 449.

Pub. L. 93-381, title IV, § 400, Aug. 21, 1974, 88 Stat. 620.

Pub. L. 98-143, title IV, § 400, Oct. 30, 1973, 87 Stat. 517.

CHAPTER 17—NATIONAL OCEAN SURVEY

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885 to 887. Repealed.
888. Omitted.
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SUBCHAPTER I—GENERAL PROVISIONS

§ 851. Commissioned officers; authorized number

There are authorized in the National Oceanic and Atmospheric Administration 388 commissioned officers on the active list.

(Pub. L. 94-362, title III, § 301, July 14, 1976, 90 Stat. 949.)

TRANSFER OF FUNCTIONS

The Coast and Geodetic Survey was consolidated with the Weather Bureau to form a new agency in the Department of Commerce to be known as the Environmental Science Services Administration, and the offices of Director and Deputy Director of the Coast and Geodetic Survey were abolished, by Reorg. Plan No. 2 of 1965, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318, set out as a note below. The Reorg. Plan also transferred to the Secretary of Commerce all functions of the Coast and Geodetic Survey and of its Director.

Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, set out in the Appendix to Title 5, Government Organization and Employees, abolished the Environmental Science Services Administration, including the offices of Administrator and Deputy Administrator, and established the National Oceanic and Atmospheric Administration within the Department of Commerce. By Department Organization Order 25-5A, republished 39 F.R. 27486, July 29, 1974, the Secretary of Commerce delegated to the National Oceanic and Atmospheric Administration a number of functions vested in him, including his functions under this chapter of the Code. By order of the Acting Associate Administrator, 35 F.R. 19249, Dec. 19, 1970, the following organizational names appearing in chapter IX of subtitle B of Title 15, Code of Federal Regulations, relating to the Administration, were changed: Environmental Science Services Administration to National Oceanic and Atmospheric Administration (ESSA to NOAA); Coast and Geodetic Survey to National Ocean Survey, and Weather Bureau to National Weather Service.

Section 857-5 of this title further provides for the applicability of statutory provisions, formerly applied to commissioned officers of the Coast and Geodetic Survey, to commissioned officers of the National Oceanic and Atmospheric Administration.

The functions of all officers of the Department of Commerce and all functions of all officers and employees of such Department, were, with a few exceptions, transferred to the Secretary of Commerce, with power vested in him to authorize their performance or the performance of any of his functions by any of such officers, agencies, and employees, by Reorg. Plan No. 5 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1263, set out in the Appendix to Title 5. The Coast and Geodetic Survey was an agency within the Department of Commerce.

SIMILAR PROVISIONS

Section is from the Department of Commerce Appropriation Act, 1977. Similar provisions were contained in the following prior appropriation acts:

Oct. 21, 1975, Pub. L. 94-121, title III, § 301, 89 Stat. 625.
Oct. 5, 1974, Pub. L. 93-433, title III, § 301, 88 Stat. 1197.
Nov. 27, 1973, Pub. L. 93-162, title III, § 301, 87 Stat. 647.
Oct. 25, 1972, Pub. L. 92-544, title III, § 301, 86 Stat. 1121.
Aug. 10, 1971, Pub. L. 92-77, title III, § 301, 85 Stat. 257.
Oct. 21, 1970, Pub. L. 91-472, title III, § 301, 84 Stat. 1051.
Dec. 24, 1969, Pub. L. 91-153, title III, § 301, 83 Stat. 414.
Aug. 9, 1968, Pub. L. 90-470, title III, § 301, 82 Stat. 679.
Nov. 8, 1967, Pub. L. 90-133, title III, § 301, 81 Stat. 422.
Nov. 8, 1966, Pub. L. 89-797, title III, § 301, 80 Stat. 1491.
Sept. 2, 1965, Pub. L. 89-164, title III, § 301, 79 Stat. 631.
Aug. 31, 1964, Pub. L. 88-527, title III, § 301, 78 Stat. 722.
Dec. 30, 1963, Pub. L. 88-245, title III, § 301, 77 Stat. 787.
Oct. 18, 1962, Pub. L. 87-843, title III, § 301, 76 Stat. 1091.
Aug. 3, 1961, Pub. L. 87-125, title II, § 201, 75 Stat. 271.
May 13, 1960, Pub. L. 86-451, title I, § 101, 74 Stat. 94.
July 13, 1959, Pub. L. 86-88, title I, § 101, 73 Stat. 202.
June 25, 1958, Pub. L. 85-469, title I, § 101, 72 Stat. 229.
June 13, 1957, Pub. L. 85-52, title I, § 101, 71 Stat. 72.
June 20, 1956, ch. 415, title I, § 101, 70 Stat. 316.
June 30, 1955, ch. 253, title I, § 101, 69 Stat. 228.
July 2, 1954, ch. 456, title III, § 301, 68 Stat. 424.
Aug. 5, 1953, ch. 328, title III, § 301, 67 Stat. 378.
July 10, 1952, ch. 651, title III, § 301, 66 Stat. 564.
Oct. 22, 1951, ch. 533, title III, § 301, 65 Stat. 590.
Sept. 6, 1950, ch. 896, title III, § 301, 64 Stat. 624.
July 20, 1949, ch. 354, title III, § 301, 63 Stat. 466.
June 3, 1948, ch. 400, title III, § 301, 62 Stat. 325.
July 9, 1947, ch. 211, title III, § 301, 61 Stat. 298.
July 5, 1946, ch. 541, title III, 60 Stat. 465.
May 21, 1945, ch. 129, title III, 59 Stat. 191.
June 28, 1944, ch. 294, title III, 58 Stat. 420.
July 1, 1943, ch. 182, title III, 57 Stat. 296.
July 2, 1942, ch. 472, title III, 56 Stat. 495.
June 28, 1941, ch. 258, title II, 55 Stat. 283.
May 14, 1940, ch. 189, title II, 54 Stat. 198.
June 29, 1939, ch. 248, title III, 53 Stat. 916.
Apr. 27, 1938, ch. 180, title III, § 1, 52 Stat. 281.
June 16, 1937, ch. 359, title III, § 1, 50 Stat. 294.
May 15, 1936, ch. 405, § 1, 49 Stat. 1341.
Mar. 22, 1935, ch. 39, § 1, 49 Stat. 96.
Feb. 27, 1925, ch. 364, title III, 43 Stat. 1046.

REORGANIZATION PLAN NO. 2 OF 1965

Eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, May 13, 1965, pursuant to the provisions of the Reorganization Act of 1949, 63 Stat. 203, as amended [see now section 901 et seq. of Title 5, Government Organization and Employees].

ENVIRONMENTAL SCIENCE SERVICES ADMINISTRATION, DEPARTMENT OF COMMERCE

SECTION 1. TRANSFER OF FUNCTIONS

All functions vested by law in the Weather Bureau [now the National Weather Service], the Chief of the Weather Bureau, the Coast and Geodetic Survey [now the National Ocean Survey], the Director of the Coast and Geodetic Survey, and any officer, employee, or organizational entity of that Bureau or Survey, and not heretofore transferred to the Secretary of Commerce, hereinafter referred to as the Secretary, are hereby transferred to the Secretary.

SEC. 2. ABOLITIONS

(a) The offices of Director of the Coast and Geodetic Survey, Deputy Director of the Coast and Geodetic Survey, and Chief of the Weather Bureau are hereby abolished. The Secretary shall make such provisions

as he shall deem to be necessary respecting the winding up of any outstanding affairs of the officers whose offices are abolished by the provisions of this section.

(b) The abolitions effected by the provision of subsection (a) of this section shall exclude the abolition of rights to which the present incumbents of the abolished offices would be entitled under law upon the termination of their appointments.

SEC. 3. ENVIRONMENTAL SCIENCE SERVICES ADMINISTRATION

(a) The Coast and Geodetic Survey and the Weather Bureau are hereby consolidated to form a new agency in the Department of Commerce which shall be known as the Environmental Science Services Administration, hereinafter referred to as the Administration.

(b) The Secretary shall from time to time establish such constituent organizational entities of the Administration, with such names, as he shall determine.

SEC. 4. OFFICERS OF THE ADMINISTRATION

(a) There shall be at the head of the Administration the Administrator of the Environmental Science Services Administration, hereinafter referred to as the Administrator. The Administrator shall be appointed by the President by and with the advice and consent of the Senate. He shall perform such functions as the Secretary may from time to time direct.

(b)(1) There shall be in the Administration a Deputy Administrator of the Environmental Science Services Administration, hereinafter referred to as the Deputy Administrator, who shall be appointed by the President by and with the advice and consent of the Senate, shall perform such functions as the Secretary may from time to time direct, and, unless he is compensated in pursuance of the provisions of paragraph (2), below, shall receive compensation in accordance with the Classification Act of 1949, as amended [see now chapter 51 and subchapter III of chapter 53 of Title 5, Government Organization and Employees].

(2) The office of Deputy Administrator may be filled at the discretion of the President by appointment (by and with the advice and consent of the Senate) from the active list of commissioned officers of the Administration in which case the appointment shall create a vacancy on the active list and while holding the office of Deputy Administrator the officer shall have rank, pay and allowances not exceeding those of a Vice Admiral.

(c) The Deputy Administrator of such other official of the Department of Commerce as the Secretary shall from time to time designate shall act as Administrator during the absence or disability of the Administrator or in the event of a vacancy in the office of Administrator.

(d) At any one time, one principal constituent organizational entity of the Administration may, if the Secretary so elects, be headed by a commissioned officer of the Administration, who shall be designated by the Secretary. Such designation of an officer shall create a vacancy on the active list and while serving under this paragraph the officer shall have rank, pay and allowances not exceeding those of a Rear Admiral (upper half).

(e) Any commissioned officer of the Administration who has served as Deputy Administrator or has served in a rank above that of Captain as the head of a principal constituent organizational entity of the Administration, and is retired while so serving or is retired after the completion of such service while serving in a lower rank or grade, shall be retired with the rank, pay and allowances authorized by law for the highest grade and rank held by him; but any such officer, upon termination of his appointment in a rank above that of Captain, shall, unless appointed or assigned to some other position for which a higher rank or grade is provided, revert to the grade and number he would have occupied had he not served in a rank above that of Captain and such officer shall be an extra number in that grade. [As amended Pub. L. 90-83, § 10(c), Sept. 11, 1967, 81 Stat. 224.]

SEC. 5. AUTHORITY OF THE SECRETARY

Nothing in this organization plan shall divert the Secretary of any function vested in him by law or by Reorganization Plan No. 5 of 1950 (64 Stat. 1263) [set out in the Appendix to Title 5, Government Organization and Employees] or in any manner derogate from any authority of the Secretary thereunder.

SEC. 6. PERSONNEL, PROPERTY, RECORDS AND FUNDS

(a) The personnel (including commissioned officers) employed in the Coast and Geodetic Survey, the personnel employed in the Weather Bureau, and the property and records held or used by the Weather Bureau or the Coast and Geodetic Survey shall be deemed to be transferred to the Administration.

(b) Unexpended balances of appropriations, allocations, and other funds available or to be made available in connection with functions now administered by the Weather Bureau or by the Coast and Geodetic Survey shall be available to the Administration hereunder in connection with those functions.

(c) Such further measures and dispositions as the Director of the Bureau of the Budget shall deem to be necessary in order to effectuate the foregoing provisions of this section shall be carried out in such manner as he shall direct and by such agencies as he shall designate.

SEC. 7. INTERIM OFFICERS

(a) The President may authorize any person who immediately prior to the effective date of this reorganization plan held a position in the executive branch of the Government to act as Administrator until the office of Administrator is for the first time filled pursuant to the provisions of this reorganization plan or by recess appointment, as the case may be.

(b) The President may similarly authorize any such person to act as Deputy Administrator.

(c) The President may authorize any person who serves in an acting capacity under the foregoing provisions of this section to receive the compensation attached to the office in respect to which he so serves. Such compensation, if authorized, shall be in lieu of, but not in addition to, other compensation from the United States to which such person may be entitled.

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 2 of 1965, prepared in accordance with the provisions of the Reorganization Act of 1949, as amended [see now section 901 et seq. of Title 5, Government Organization and Employees], and providing for the reorganization of two major agencies of the Department of Commerce: The Weather Bureau and the Coast and Geodetic Survey.

The reorganization plan consolidates the Coast and Geodetic Survey and the Weather Bureau to form a new agency in the Department of Commerce to be known as the Environmental Science Services Administration. It is the intention of the Secretary of Commerce to transfer the Central Radio Propagation Laboratory of the National Bureau of Standards to the Administration when the reorganization plan takes effect. The new Administration will then provide a single national focus for our efforts to describe, understand, and predict the state of the oceans, the state of the lower and upper atmosphere, and the size and shape of the earth.

Establishment of the Administration will mark a significant step forward in the continual search by the Federal Government for better ways to meet the needs of the Nation for environmental science services. The organizational improvements made possible by the reorganization plan will enhance our ability to develop an adequate warning system for the severe hazards of nature—for hurricanes, tornadoes, floods, earthquakes, and seismic sea waves, which have proved so disastrous to the Nation in recent years. These improvements will permit us to provide better

environmental information to vital segments of the Nation's economy—to agriculture, transportation, communications, and industry, which continually require information about the physical environment. They will mean better services to other Federal departments and agencies—to those that are concerned with the national defense, the exploration of outer space, the management of our mineral and water resources, the protection of the public health against environmental pollution, and the preservation of our wilderness and recreation areas.

The new Administration will bring together a number of allied scientific disciplines that are concerned with the physical environment. The integration will better enable us to look at man's physical environment as a scientific whole and to seek to understand the interactions among air, sea, and earth and between the upper and lower atmosphere. It will facilitate the development of programs dealing with the physical environment and will permit better management of these programs. It will enhance our capability to identify and solve important long-range scientific and technological problems associated with the physical environment. The new Administration will, in consequence, promote a fresh sense of scientific dedication, discovery, and challenge, which are essential if we are to attract scientists and engineers of creativity and talent to Federal employment in this field.

The reorganization plan provides for an Administrator at the head of the Administration, and for a Deputy Administrator, each of whom will be appointed by the President by and with the advice and consent of the Senate. As authorized by the civil service and other laws and regulations, subordinate officers of the Administration will be appointed by the Secretary of Commerce or be assigned by him from among a corps of commissioned officers. The Administration will perform such functions as the Secretary of Commerce may delegate or otherwise assign to it and will be under his direction and control.

Commissioned officers of the Coast and Geodetic Survey will become commissioned officers of the Administration and may serve at the discretion of the Secretary of Commerce throughout the Administration. The reorganization plan authorizes the President at his discretion to fill the Office of Deputy Administrator by appointment, by and with the advice and consent of the Senate, from the active list of commissioned officers of the Administration.

The reorganization plan transmitted herewith abolishes—and thus excludes from the consolidation mentioned above—the offices of (1) Chief of the Weather Bureau, provided for in the act of October 1, 1890 (15 U.S.C. 312); (2) Director of the Coast and Geodetic Survey, provided for in the acts of June 4, 1920, and February 16, 1929, as amended (33 U.S.C. 852, 852a); and (3) Deputy Director of the Coast and Geodetic Survey, provided for in the act of January 19, 1942, as amended (33 U.S.C. 852b).

After investigation, I have found and hereby declare that each reorganization included in Reorganization Plan No. 2 of 1965 is necessary to accomplish one or more of the purposes set forth in section 2(a) of the Reorganization Act of 1949, as amended [see now section 901 of Title 5, Government Organization and Employees]. I have also found and hereby declare that by reason of the reorganizations made by the reorganization plan, it is necessary to include in the plan provisions for the appointment and compensation of the officers of the Administration set forth in section 4 of the reorganization plan. The rate of compensation fixed for each of these officers is that which I have found to prevail in respect of comparable officers in the executive branch of the Government.

In addition to permitting more effective management within the Department of Commerce, the new organization will ultimately produce economies. These economies will be of two types. The first, and probably the most significant, is the savings and avoidance of costs which will result from the sharing of complex and expensive facilities such as satellites, computers, communication systems, aircraft, and ships. These economies will increase in significance as developments in science and technology bring into being still more advanced equipment. Second, integration of the existing headquarters and field organizations will permit more efficient utilization of existing administrative staffs and thereby produce future economies. It is, however, impracticable to specify or itemize at this time the reductions of expenditures which it is probable will be brought about by the taking effect of the reorganizations included in the reorganization plan.

I recommend that the Congress allow the accompanying reorganization plan to become effective.

LYNDON B. JOHNSON.

THE WHITE HOUSE, May 13, 1965.

CROSS REFERENCES

Pay and allowances of commissioned officers of the uniformed services, see section 101 et seq. of Title 37, Pay and Allowances of the Uniformed Services.

§ 851a. Repealed. June 3, 1948, ch. 390, § 22(a), 62 Stat. 300, renumbered Sept. 14, 1961, Pub. L. 87-233, § 1(f), 75 Stat. 506

Section, act Jan. 19, 1942, ch. 6, § 1, 56 Stat. 6, related to distribution of the total number of commissioned officers in rank and is now covered by section 853a of this title.

§§ 852 to 852b. Omitted

CODIFICATION

Sections, which made provision for a Director of the Coast and Geodetic Survey and for a Deputy Director and covered their appointment, rank, pay, and allowances, have been omitted in view of 1965 Reorg. Plan No. 2, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318, set out as a note under section 851 of this title, which abolished such offices and transferred their functions to the Secretary of Commerce. For further details, see Transfer of Functions note under section 851 of this title.

Section 852, acts June 4, 1920, ch. 228, § 1, 41 Stat. 825; June 5, 1920, ch. 235, § 1, 41 Stat. 929; Feb. 16, 1929, ch. 221, § 5, 45 Stat. 1187; Mar. 18, 1936, ch. 147, 49 Stat. 1164, provided for the appointment and reappointment of the Director of the Coast and Geodetic Survey.

Section 852a, acts Feb. 16, 1929, ch. 221, § 5, 45 Stat. 1187; Mar. 18, 1936, ch. 147, 49 Stat. 1164; June 3, 1948, ch. 390, § 21(a), formerly § 20(a), 62 Stat. 300, renumbered Sept. 14, 1961, Pub. L. 87-233, § 1(f), 75 Stat. 506, provided for the rank, pay, and allowances of the Director.

Section 852b, acts Jan. 19, 1942, ch. 6, § 8, 56 Stat. 8; June 3, 1948, ch. 390, § 21(b), formerly § 20(b), 62 Stat. 300, renumbered Sept. 14, 1961, Pub. L. 87-233, § 1(f), 75 Stat. 506, and amended June 21, 1955, ch. 172, § 3(b), 69 Stat. 169; June 30, 1960, Pub. L. 86-554, § 1, 74 Stat. 258, provided for the appointment, active and retired rank, pay, and allowances, of the Deputy Director of the Coast and Geodetic Survey.

§ 853. Power to settle claims

The Secretary of Commerce is authorized to consider, ascertain, adjust, and determine all claims for damages, where the amount of the claim does not exceed $500, occasioned, subsequent to June 5, 1920, by acts for which the National Ocean Survey shall be found to be responsible.

(June 5, 1920, ch. 235, § 1, 41 Stat. 929; June 5, 1920, ch. 256, 41 Stat. 1054; 1965 Reorg. Plan. No. 2, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318; 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970,

35 F.R. 15627, 84 Stat. 2090; Jan. 2, 1975, Pub. L. 93-608, § 1(4), 88 Stat. 1967.)

AMENDMENTS

1975—Pub. L. 93-608 struck out reporting requirement to Congress of amounts ascertained and determined due for payment as legal claims out of Congressional appropriations.

TRANSFER OF FUNCTIONS

The office of Director of the Coast and Geodetic Survey was abolished, and the Coast and Geodetic Survey was consolidated with the Weather Bureau to form a new agency in the Department of Commerce to be known as the Environmental Science Services Administration, by Reorg. Plan No. 2 of 1965, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318, set out as a note under section 851 of this title. The Reorg. Plan also transferred to the Secretary of Commerce all functions of the Coast and Geodetic Survey and the Director. Subsequently, the Environmental Science Services Administration was abolished, and the National Oceanic and Atmospheric Administration was established by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090. By Department Organization Order 25-5A, the Secretary delegated to NOAA his functions under this chapter of the Code. By order of the Acting Associate Administrator of NOAA, the organizational name of the Coast and Geodetic Survey was changed to the National Ocean Survey. For further details, see Transfer of Functions note under section 851 of this title.

REPEALS

Act Aug. 2, 1946, ch. 753, title IV, § 424(a), 60 Stat. 846, repealed this section insofar as it concerned claims cognizable under sections 921 and 922 of former Title 28, Judicial Code and Judiciary (see now sections 2672 and 2673 of Title 28, Judiciary and Judicial Procedure) which are caused by the negligent or wrongful act or omission of any Government employee acting within the scope of his employment, but by section 424(b) of that act, section 946 of former title 28 (see now note set out under section 2680 of title 28), this section is specifically saved with reference to any claim which is not caused by the negligent or wrongful act or omission of any Government employee acting within the scope of his employment.

§ 853a. Authorized numbers in permanent rank

(a) Relative rank; proportion

Of the total authorized number of commissioned officers on the active list of the National Oceanic and Atmospheric Administration, there are authorized numbers in permanent grade, in relative rank with officers of the Navy, in the proportion of eight in the grade of captain, to fourteen in the grade of commander, to nineteen in the grade of lieutenant commander, to twenty-three in the grade of lieutenant, to eighteen in the grade of lieutenant (junior grade), to eighteen in the grade of ensign.

(b) Computation of number in grade

Whenever a final fraction occurs in computing the authorized number of officers in any grade, the nearest whole number shall be taken, and if such fraction be one-half the next higher whole number shall be taken: *Provided*, That the total number of officers as authorized by law shall not be increased as the result of the computations prescribed herein, and if necessary the number of officers in the lowest grade shall be reduced accordingly.

(c) Reduction of grade or pay; separation

No officer shall be reduced in grade or pay or separated from the active list as the result of any computations made to determine the authorized number of officers in the various grades.

(d) Filling of vacancies; additional numbers

Nothing in this section shall be construed as requiring the filling of any vacancy or as prohibiting additional numbers in any grade to compensate for vacancies existing in higher grades.

(e) Temporary increase in numbers

The total number of officers on active duty as authorized by law may be temporarily exceeded provided that the average number on active duty for the fiscal year shall not exceed the authorized number.

(June 3, 1948, ch. 390, § 2, 62 Stat. 297; Sept. 14, 1961, Pub. L. 87-233, § 1(a), 75 Stat. 506; 1965 Reorg. Plan No. 2, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318; 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090.)

AMENDMENTS

1961—Subsec. (e). Pub. L. 87-233 added subsec. (e).

SHORT TITLE

Section 1 of act June 3, 1948, provided: "That this Act [enacting sections 853a to 853o and 853p to 853t of this title, amending sections 852a and 852b of this title, and repealing sections 854b and 854c of this title] may be cited as the 'Coast and Geodetic Survey Commissioned Officers' Act of 1948'."

TRANSFER OF FUNCTIONS

The Coast and Geodetic Survey was consolidated with the Weather Bureau to form a new agency in the Department of Commerce to be known as the Environmental Science Services Administration, and the commissioned officers of the Survey were transferred to ESSA, by Reorg. Plan No. 2 of 1965, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318, set out as a note under section 851 of this title. The Reorg. Plan also transferred to the Secretary of Commerce all functions of the Coast and Geodetic Survey and the Director of the Survey. Subsequently, the Environmental Science Services Administration was abolished, the National Oceanic and Atmospheric Administration was established, and the Commissioned Officer Corps of ESSA was redesignated the Commissioned Officer Corps of NOAA by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090. For further details, see Transfer of Functions note under section 851 of this title.

§ 853b. Promotion by selection to grades above lieutenant (junior grade)

Promotion to fill vacancies in all permanent grades above that of lieutenant (junior grade) shall be made by selection from the next lower respective grades upon recommendation of the personnel board hereinafter provided for.

(June 3, 1948, ch. 390, § 3, 62 Stat. 298.)

§ 853c. Consideration of all eligible officers for promotion purposes; date of promotion; separation from service

Irrespective of any vacancies, each officer in the permanent grade of lieutenant (junior grade) and lieutenant shall be considered by the personnel board for promotion to the grade of lieutenant and lieutenant commander in sufficient time so that, if found fully qualified, such officer may be promoted to and appointed in such grade upon completion of seven and fourteen years of service, respectively. All pro-

motions under this section shall be made on the date on which the required service is completed, and the authorized number of officers in the grade of lieutenant and lieutenant commander shall be temporarily increased, if necessary, to authorize such appointments: *Provided*, That an officer found not fully qualified in accordance with this section may be promoted on such later date on which he may be found fully qualified.

(June 3, 1948, ch. 390, § 4, 62 Stat. 298.)

§ 853d. Promotions to permanent grades of commander and captain; time

Irrespective of any vacancies, any officer in the permanent grade of lieutenant commander who has completed twenty-one years of service and any officer in the permanent grade of commander who has completed thirty years of service may be considered by the personnel board at any time for promotion to the grade of commander and captain, respectively. If selected, he may be promoted at any time and the authorized number of officers in the grade of commander and captain shall be temporarily increased, if necessary, to authorize such appointments.

(June 3, 1948, ch. 390, § 5, 62 Stat. 298.)

§ 853e. Promotion of ensigns; separation from service

(a) Officers in the permanent grade of ensign shall be promoted to and appointed in the grade of lieutenant (junior grade) on completion of three years of service, and the authorized number of officers in the grade of lieutenant (junior grade) shall from time to time be temporarily increased as necessary to authorize such appointments.

(b) Ensigns who are found not fully qualified at any time shall have their commissions revoked and be separated from the commissioned service.

(June 3, 1948, ch. 390, § 6, 62 Stat. 298; June 21, 1955, ch. 172, § 4(a), 69 Stat. 169; Sept. 14, 1961, Pub. L. 87-233, § 1(b), 75 Stat. 506.)

AMENDMENTS

1961—Subsec. (a). Pub. L. 87-233 deleted proviso authorizing officers in the permanent grade of ensign to be promoted to and appointed in the grade of lieutenant (junior grade) upon completion of two years' service whenever there are vacancies in the grade of lieutenant (junior grade).

1955—Subsec. (a). Act June 21, 1955, added proviso clause.

DELEGATION OF FUNCTIONS

Functions of the President under subsec. (b) delegated to the Secretary of Commerce, see section 1(a) of Ex. Ord. No. 11023, May 28, 1962, 27 F.R. 5131, set out as a note under section 301 of Title 3, The President.

§ 853f. Length of service for promotion purposes

Each officer shall be assumed to have, for promotion purposes, at least the same length of service as any officer below him on the lineal list, except that an officer who has lost numbers shall be assumed to have for promotion purposes no greater service than the officer next above him in his new position on the lineal list.

(June 3, 1948, ch. 390, § 7, 62 Stat. 298.)

§ 853g. Transfer of officers to retired list; separation from service; computations; effective date of retirements and separations

As recommended by the personnel board, officers in the permanent grade of captain, commander, and lieutenant commander may be transferred to the retired list and officers in the permanent grade of lieutenant and lieutenant (junior grade) may be separated from the service: *Provided*, That, in any fiscal year, the total number of officers selected for retirement and separation plus the number of officers retired for age shall not exceed the whole number nearest 4 per centum of the total authorized number of commissioned officers on the active list, except as otherwise provided by law: *Provided further*, That all retirements and separations pursuant to this section shall become effective on the first day of the sixth month following the date of approval of the retirement or separation by the Secretary of Commerce, unless the officer concerned requests earlier retirement or separation, in which case the date shall be as determined by the Secretary of Commerce.

(June 3, 1948, ch. 390, § 8, 62 Stat. 298.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 853h of this title.

§ 853h. Lump-sum payment upon separation from service; computation

Any officer in the grade of lieutenant or lieutenant (junior grade) who is separated from the service in accordance with section 853g of this title shall be paid a lump-sum payment computed on the basis of two months' basic pay at the time of separation for each year of service, but not to exceed a total of two years' basic pay: *Provided*, That for the purpose of this section a fractional year of six months or more shall be considered a full year in computing the number of years of service upon which to base such lump-sum payment.

(June 3, 1948, ch. 390, § 9, 62 Stat. 299; Sept. 7, 1962, Pub. L. 87-649, § 9(b)(1), 76 Stat. 495.)

AMENDMENTS

1962—Pub. L. 87-649 substituted "basic pay" for "active-duty pay with longevity credit" in two instances.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87-649 effective on Nov. 1, 1962, see section 15 of Pub. L. 87-649, set out as an Effective Date note preceding section 101 of Title 37, Pay and Allowances of the Uniformed Services.

§ 853i. Appointments and promotions made by President; suspension during war or emergency

(a) Appointments in and promotions to all permanent grades shall be made by the President, by and with the advice and consent of the Senate.

(b) In time of emergency declared by the President or by the Congress, and in time of war, the President is authorized, in his discretion, to suspend the operation of all or any part

or parts of the several provisions of law pertaining to promotion.

(June 3, 1948, ch. 390, § 10, 62 Stat. 299; June 21, 1955, ch. 172, § 4(b), 69 Stat. 170.)

AMENDMENTS

1955—Subsec. (a). Act June 21, 1955, authorized appointments to all permanent grades.

§ 853j. Examinations for promotion

Nothing in this Act shall be construed to modify the provisions of existing law relating to examination of officers for promotion, and no officer shall be promoted until he shall have passed the prescribed examinations.

(June 3, 1948, ch. 390, § 11, 62 Stat. 299.)

REFERENCE IN TEXT

"This Act", referred to in text, means act June 3, 1948, ch. 390, 62 Stat. 297, known as the "Coast and Geodetic Survey Commissioned Officers' Act of 1948," which enacted sections 853a to 853o and 853p to 853t of this title, amended sections 852a and 852b of this title, and repealed sections 854b and 854c of this title. For complete classification of this Act to the Code, see Short Title note set out under section 853a of this title and Tables volume.

§ 853j–1. Temporary appointments and promotions made by President

(a) Ensign

Temporary appointment in the grade of ensign may be made by the President alone, provided such temporary appointment will be terminated at the close of the next regular session of the Congress unless confirmed by the Senate.

(b) Lieutenant junior grade

Officers in the permanent grade of ensign may be temporarily promoted to and appointed in the grade of lieutenant junior grade by the President alone whenever vacancies exist in higher grades.

(c) Any one grade

When deemed necessary or desirable by the Secretary of Commerce to be in the best interest of the service, officers in any permanent grade may be temporarily promoted one grade by the President alone provided such temporary promotion will terminate upon the transfer of the officer to a new assignment, and further provided the number of officers holding temporary promotions under authority of this subsection shall not exceed the whole number nearest 1½ per centum of the total number of officers authorized to be on active duty.

(June 3, 1948, ch. 390, § 12, as added Sept. 14, 1961, Pub. L. 87–233, § 1(d), 75 Stat. 506.)

DELEGATION OF FUNCTIONS

Functions of the President under subsecs. (a), (b) and (c) delegated to the Secretary of Commerce, see section 1(b), (c) and (d) of Ex. Ord. No. 11023, May 28, 1962, 27 F.R. 5131, set out as a note under section 301 of Title 3, The President.

§ 853k. Retirement of officers

(a) For age; effective date

When any commissioned officer serving in a rank below that of rear admiral has attained the age of sixty years, he shall be placed on the retired list: *Provided*, That this subsection shall not become effective until a date six months subsequent to June 3, 1948, and until such effective date the retirement age for officers serving in a rank below that of rear admiral shall be sixty-two years.

(b) Admirals for length of service; deferment

When any officer serving in a rank above that of captain has attained the age of sixty-two years, he shall be placed on the retired list: *Provided*, That the President may, in his discretion, defer placing any such officer on the retired list for the length of time he deems advisable but not later than the date upon which such officer attains the age of sixty-four years.

(June 3, 1948, ch. 390, § 13, formerly § 12, 62 Stat. 299, renumbered Sept. 14, 1961, Pub. L. 87–233, § 1(c), 75 Stat. 506.)

DELEGATION OF FUNCTIONS

Functions of the President under subsec. (b) delegated to the Secretary of Commerce, see section 1(e) of Ex. Ord. No. 11023, May 28, 1962, 27 F.R. 5131, set out as a note under section 301 of Title 3, The President.

§ 853*l*. Retirement for length of service upon application

When any commissioned officer has completed twenty years of service, he may at any time thereafter, upon his own application, in the discretion of the President, be placed on the retired list.

(June 3, 1948, ch. 390, § 14, formerly § 13, 62 Stat. 299, renumbered and amended Sept. 14, 1961, Pub. L. 87–233, § 1(e), 75 Stat. 506.)

PRIOR PROVISIONS

A prior section 14 of act June 3, 1948, was classified to section 853m of this title and was repealed.

AMENDMENTS

1961—Pub. L. 87–233 substituted "twenty" for "thirty".

DELEGATION OF FUNCTIONS

Functions of the President under this section delegated to the Secretary of Commerce, see section 1(f) of Ex. Ord. No. 11023, May 28, 1962, 27 F.R. 5131, set out as a note under section 301 of Title 3, The President.

§§ 853m, 853n. Repealed. Oct. 12, 1949, ch. 681, title V, § 531(b)(41), 63 Stat. 840

Section 853m, act June 3, 1948, ch. 390, § 14, 62 Stat. 299, related to retirement for disability. See section 1201 et seq. of Title 10, Armed Forces.

Section 853n, act June 3, 1948, ch. 390, § 15, 62 Stat. 299, related to computation of service for retirement purposes. See sections 1401 et seq., 6321 et seq., and 6371 et seq. of Title 10, Armed Forces.

EFFECTIVE DATE OF REPEAL

Repeal of sections effective Oct. 1, 1949, see section 533(a) of act Oct. 12, 1949, set out as an Effective Date of 1949 Amendment note under section 853*o* of this title.

§ 853*o*. Computation of pay upon retirement

(a) Each commissioned officer on the retired list, except as provided in subsection (b) of this section or in some other provision of law, shall receive retired pay at the rate of 2½ per centum of the basic pay of the rank with which

retired, multiplied by the number of years of service that may be credited to him under section 1405 of title 10, as if his service were service as a member of the armed forces, not to exceed a total of 75 per centum of said basic pay: *Provided*, That a fractional year of six months or more shall be considered a full year in computing the number of years of service by which the rate of 2½ per centum is multiplied.

(b) Repealed. Oct. 12, 1949, ch. 681, title V, § 531(b)(41), 63 Stat. 840

(June 3, 1948, ch. 390, § 16, 62 Stat. 299; Oct. 12, 1949, ch. 681, title V, § 531(b)(41), 63 Stat. 840; May 20, 1958, Pub. L. 85-422, § 11(c), 72 Stat. 132; Sept. 7, 1962, Pub. L. 87-649, § 9(b)(2), 76 Stat. 495.)

AMENDMENTS

1962—Subsec. (a). Pub. L. 87-649 substituted "basic pay" for "active-duty pay with longevity credit" in two instances.

1958—Subsec. (a). Pub. L. 85-422 substituted "that may be credited to him under section 1405 of title 10 as if his service were service as a member of the armed forces" for "for which entitled to credit in the computation of his pay while on active duty".

1949—Subsec. (b). Act Oct. 12, 1949 repealed subsec. (b), which provided that each commissioned officer retired for physical disability incurred in the line of duty receive retired pay of 75 per centum of his active duty pay with longevity credit of the rank at which retired.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87-649 effective on Nov. 1, 1962, see section 15 of Pub. L. 87-649, set out as an Effective Date note preceding section 101 of Title 37, Pay and Allowances of the Uniformed Services.

EFFECTIVE DATE OF 1958 AMENDMENT

Section 9 of Pub. L. 85-422 provided that: "This Act becomes effective on the first day of the month following the month in which it is enacted [May 1958]."

EFFECTIVE DATE OF 1949 AMENDMENT

Section 533(a) of act Oct. 12, 1949, provided that: "Except as provided in subsections (b) and (c) of this section, this Act [act Oct. 12, 1949, ch. 681, 63 Stat. 802] shall become effective on October 1, 1949, and no pay, allowances, or benefits provided herein shall accrue to any person for any period prior thereto."

CROSS REFERENCES

Restriction on retirement payments to officers selling to Government agencies, see section 801 of Title 37, Pay and Allowances of the Uniformed Services.

§ 853o-1. Credit of service as deck officer or junior engineer and certain other active service for retirement and retirement pay

Active service in the National Oceanic and Atmospheric Administration as a deck officer or junior engineer and active service counted on June 30, 1922, for longevity pay, shall be credited to commissioned officers as active commissioned service for purposes of retirement and retirement pay.

(Pub. L. 87-649, § 9(c), Sept. 7, 1962, 76 Stat. 496; 1965 Reorg. Plan No. 2, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318; 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090.)

CODIFICATION

Section was formerly classified to section 302 of Title 37 prior to the general revision and enactment of Title 37, Pay and Allowances of the Uniformed Services, by Pub. L. 87-649, § 1, Sept. 7, 1962, 76 Stat. 451.

EFFECTIVE DATE

Section effective Nov. 1, 1962, see section 15 of Pub. L. 87-649, set out as an Effective Date note preceding section 101 of Title 37, Pay and Allowances of the Uniformed Services.

TRANSFER OF FUNCTIONS

The Coast and Geodetic Survey was consolidated with the Weather Bureau to form a new agency in the Department of Commerce to be known as the Environmental Science Services Administration, and the commissioned officers of the Survey were transferred to ESSA, by Reorg. Plan No. 2 of 1965, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318, set out as a note under section 851 of this title. The Reorg. Plan also transferred to the Secretary of Commerce all functions of the Coast and Geodetic Survey and the Director of the Survey. Subsequently, the Environmental Science Services Administration was abolished, the National Oceanic and Atmospheric Administration was established, and the Commissioned Officer Corps of ESSA was redesignated the Commissioned Officer Corps of NOAA by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, set out in the Appendix to Title 5, Government Organization and Employees. For further details, see Transfer of Functions note under section 851 of this title.

CROSS REFERENCES

Service credit as deck officer or junior engineer for promotion purposes, see section 854a of this title.

§ 853p. Rank upon retirement; pay; definition

(a) Each commissioned officer heretofore or hereafter retired pursuant to any provision of law shall be placed on the retired list with the highest rank, permanent or temporary, held by him while on active duty, if his performance of duty, in the case of temporary rank, has been satisfactory as determined by the Secretary of the department or departments under whose jurisdiction the officer served, and shall receive retired pay based on such higher rank: *Provided*, That for the purposes of this section the words "temporary rank" shall mean temporary rank held prior to June 30, 1946.

(b) Officers on the retired list returned to an inactive status with higher rank pursuant to subsection (a) of this section shall receive retired pay based on such higher rank.

(June 3, 1948, ch. 390, § 17, 62 Stat. 300.)

§ 853q. Retired rank and pay held pursuant to other laws unaffected

Nothing in this Act shall prevent any officer from being placed on the retired list with the highest rank and with the highest retired pay to which he might be entitled under other provision of law.

(June 3, 1948, ch. 390, § 18, 62 Stat. 300.)

REFERENCES IN TEXT

"This Act", referred to in text, means act June 3, 1948, ch. 390, 62 Stat. 297, known as the "Coast and Geodetic Survey Commissioned Officers' Act of 1948", which enacted sections 853a to 853o and 853p to 853t of this title, amended sections 852a and 852b of this title, and repealed sections 854b and 854c of this title. For complete classification of this Act to the Code, see

Short Title note set out under section 853a of this title and Tables volume.

§ 853r. Personnel Board; composition; duties; recommendations

At least once a year and at such other times as may be necessary, the Secretary of Commerce shall appoint a personnel board consisting of not less than five officers not below the permanent rank of commander on the active list, to recommend such changes in the lineal list as the board may determine, and to make selections and recommendations for the promotion, separation, and retirement of officers as herein prescribed: *Provided*, That in case any recommendation by the board is not acceptable to the Secretary of Commerce or to the President, the board shall make such further recommendations as shall be acceptable.

(June 3, 1948, ch. 390, § 19, 62 Stat. 300.)

REFERENCES IN TEXT

"Herein", referred to in text, means act June 3, 1948, ch. 390, 62 Stat. 297, known as the "Coast and Geodetic Survey Commissioned Officers' Act of 1948", which enacted sections 853a to 853o and 853p to 853t of this title, amended sections 852a and 852b of this title, and repealed sections 854b and 854c of this title. For complete classification of this Act to the Code, see Short Title note set out under section 853a of this title and Tables volume.

§ 853s. Repealed. Pub. L. 88-431, § 1(c)(2), Aug. 14, 1964, 78 Stat. 440

Section, act June 3, 1948, ch. 390, § 20, as added Sept. 14, 1961, Pub. L. 87-233, § 1(g), 75 Stat. 506, related to the transportation of motor vehicles for commissioned officers of the Survey ordered to make a permanent change of station. See section 857a of this title.

§ 853t. Original appointments

(a) Eligible grades; examination; revocation of commission

Original appointments may be made in grades up to and including lieutenant after passage of a mental and physical examination given in accordance with regulations prescribed by the Secretary of Commerce: *Provided*, That the President, under such regulations as he may prescribe, may revoke the commission of any officer appointed under this section during his first three years of service if he is found not qualified for the service.

(b) Lineal list

Any person appointed under authority of this section shall be placed on the lineal list of active duty officers in a position commensurate with his age, education, and experience in accordance, with regulations prescribed by the Secretary of Commerce.

(c) Basic pay service credit

(1) For the purposes of basic pay any person appointed under this section to the grade of lieutenant or lieutenant (junior grade) shall be considered as having, on date of appointment, three years or one and one-half years service respectively.

(2) If a person appointed under this section is entitled to credit for the purpose of basic pay under other provision of law which would exceed that authorized by subsection (c)(1) of this section he shall be credited with that service in lieu of the credit provided by subsection (c)(1) of this section.

(June 3, 1948, ch. 390, § 23, as added Sept. 14, 1961, Pub. L. 87-233, § 1(h), 75 Stat. 506.)

DELEGATION OF FUNCTIONS

Functions of the President under subsec. (a) delegated to the Secretary of Commerce, see section 1(g) of Ex. Ord. No. 11023, May 28, 1962, 27 F.R. 5131, set out as a note under section 301 of Title 3, The President.

§ 854. Qualification of officers for appointment or promotion generally

No person shall be appointed ensign and no commissioned officer shall be promoted to a higher permanent grade on the active list until he has passed a satisfactory mental and physical examination in accordance with regulations prescribed by the Secretary of Commerce.

(May 22, 1917, ch. 20, § 16, 40 Stat. 88; June 21, 1955, ch. 172, § 2(a), 69 Stat. 169.)

CODIFICATION

Section is part of section 16 of act May 22, 1917. Portions of the original text were omitted as temporary and executed. Said section 16 is also classified to sections 855, 856, 857, and 858 of this title.

AMENDMENTS

1955—Act June 21, 1955, eliminated certain obsolete titles of positions.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 854a-1 of this title.

§ 854a. Service credit as deck officer or junior engineer for promotion purposes

For purposes of promotion which is now or may hereafter be authorized for officers appointed after June 30, 1922, there shall be counted in addition to active commissioned service, service as deck officer and junior engineer.

(Jan. 19, 1942, ch. 6, § 2, 56 Stat. 6; June 3, 1948, ch. 390, § 22(a), formerly § 21(a), 62 Stat. 300, renumbered Sept. 14, 1961, Pub. L. 87-233, § 1(f), 75 Stat. 506; and amended Oct. 12, 1949, ch. 681, title V, § 531(b)(32), 63 Stat. 839; June 21, 1955, ch. 172, § 3(a), 69 Stat. 169.)

AMENDMENTS

1955—Act June 21, 1955, credited all service as deck officer and junior engineer.

1949—Act Oct. 12, 1949, repealed that part of the former second proviso of former subsec. (b) relating to service credit as deck officer or junior engineer for pay, longevity pay, or retirement purposes.

1948—Act June 3, 1948, repealed former subsecs. (a) and (c) to (d) and all of former subsec. (b) except for the second proviso which now comprises this section.

EFFECTIVE DATE OF AMENDMENT

Amendment by act Oct. 12, 1949, effective Oct. 1, 1949, see section 533(a) of act Oct. 12, 1949, set out as an Effective Date of 1949 Amendment note under section 853o of this title.

CROSS REFERENCES

Credit of service as deck officer or junior engineer and certain other active service for retirement and retirement pay, see section 853o-1 of this title.

§ 854a–1. Temporary appointment or advancement of commissioned officers in time of war or national emergency

Personnel of the National Oceanic and Atmospheric Administration shall be subject in like manner and to the same extent as personnel of the Navy to all laws authorizing temporary appointment or advancement of commissioned officers in time of war or national emergency subject to the following limitations:

(1) Commissioned officers in the service of a military department, under the provisions of sections 854, 855, 856, 857, and 858 of this title may, upon the recommendation of the Secretary of the military department concerned, be temporarily promoted to higher ranks or grades.

(2) Commissioned officers in the service of the National Oceanic and Atmospheric Administration may be temporarily promoted to fill vacancies in ranks and grades caused by the transfer of commissioned officers to the service and jurisdiction of a military department under the provisions of sections 854, 855, 856, 857, and 858 of this title.

(3) Temporary appointments may be made in all grades to which original appointments in the National Oceanic and Atmospheric Administration are authorized: *Provided*, That the number of officers holding temporary appointments shall not exceed the number of officers transferred to a military department under the provisions of sections 854, 855, 856, 857, and 858 of this title.

(Dec. 3, 1942, ch. 670, § 1, 56 Stat. 1038; Oct. 14, 1966, Pub. L. 89–657, § 3, 80 Stat. 907; 1965 Reorg. Plan No. 2, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318; 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090.)

AMENDMENTS

1966—Pub. L. 89–657 struck out reference to act of July 24, 1941 (Public, Numbered 188, Seventy-seventh Congress) which, for purposes of codification, has been changed to sections 350 to 350j of former title 34 and substituted Environmental Science Services Administration for Coast and Geodetic Survey, temporary advancement of commissioned officers for temporary promotions, military departments for Department of the Army or Navy Department, Secretary of the military department concerned for Secretary of the Army or Secretary of the Navy, and reference to temporary appointments in all grades to which original appointments in the Environmental Science Services Administration are authorized for reference to temporary appointment of regularly appointed deck officers and junior engineers to the rank and grade of ensign.

TRANSFER OF FUNCTIONS

The Coast and Geodetic Survey was consolidated with the Weather Bureau to form a new agency in the Department of Commerce to be known as the Environmental Science Services Administration, and the commissioned officers of the Survey were transferred to ESSA, by Reorg. Plan No. 2 of 1965, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318, set out as a note under section 851 of this title. The Reorg. Plan also transferred to the Secretary of Commerce all functions of the Coast and Geodetic Survey and the Director of the Survey. Subsequently, the Environmental Science Services Administration was abolished, the National Oceanic and Atmospheric Administration was established, and the Commissioned Officer Corps of ESSA was redesignated the Commissioned Officer Corps of NOAA by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, set out in the Appendix to Title 5, Government Organization and Employees. For further details, see Transfer of Functions note under section 851 of this title.

DELEGATION OF FUNCTIONS

Functions of the President under subsecs. (1), (2), and (3) delegated to the Secretary of Commerce, see section 1(b), (i) and (j) of Ex. Ord. No. 11023, May 28, 1962, 27 F.R. 5131, set out as a note under section 301 of Title 3, The President.

§ 854a–2. Pay and allowances; date of acceptance of promotion

Any commissioned officer of the National Oceanic and Atmospheric Administration promoted to a higher grade at any time after December 7, 1941, shall be deemed for all purposes to have accepted his promotion to higher grade upon the date such promotion is made by the President unless he shall expressly decline such promotion, and shall receive the pay and allowances of the higher grade from such date unless he is entitled under some other provision of law to receive the pay and allowances of the higher grade from an earlier date. No such officer who shall have subscribed to the oath of office required by section 3331 of title 5, shall be required to renew such oath or to take a new oath upon his promotion to a higher grade, if his service after the taking of such an oath shall have been continuous.

(Dec. 3, 1942, ch. 670, § 3, 56 Stat. 1039; 1965 Reorg. Plan No. 2, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318; 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090.)

CODIFICATION

"Section 3331 of title 5" was substituted for "section 1757, Revised Statutes", on authority of section 7(b) of Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 631, section 1 of which enacted Title 5, Government Organization and Employees. Section 1757 of the Revised Statutes had been classified to section 16 of former Title 5, Executive Departments and Government Officers and Employees.

TRANSFER OF FUNCTIONS

The Coast and Geodetic Survey was consolidated with the Weather Bureau to form a new agency in the Department of Commerce to be known as the Environmental Science Services Administration, and the commissioned officers of the Survey were transferred to ESSA, by Reorg. Plan No. 2 of 1965, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318, set out as a note under section 851 of this title. The Reorg. Plan also transferred to the Secretary of Commerce all functions of the Coast and Geodetic Survey and the Director of the Survey. Subsequently, the Environmental Science Services Administration was abolished, the National Oceanic and Atmospheric Administration was established, and the Commissioned Officer Corps of ESSA was redesignated the Commissioned Officer Corps of NOAA by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, set out in the Appendix to Title 5, Government Organization and Employees. For further details, see Transfer of Functions note under section 851 of this title.

§§ 854b, 854c. Repealed. June 3, 1948, ch. 390, § 21(a), 62 Stat. 300

Section 854b, act Jan. 19, 1942, ch. 6, § 3, 56 Stat. 7, related to composition, powers and duties of a Personnel Board, and is now covered by section 853r of this title.

Section 854c, act Jan. 19, 1942, ch. 6, § 4, 56 Stat. 7, related to submission of reports of the Personnel Boards to the President, and is now covered by section 853r of this title.

§ 855. Cooperation with and transfer to military departments

The President is authorized, whenever in his judgment a sufficient national emergency exists, to transfer to the service and jurisdiction of a military department such vessels, equipment, stations, and commissioned officers of the National Oceanic and Atmospheric Administration as he may deem to the best interest of the country, and after such transfer all expenses connected therewith shall be defrayed out of the appropriations for the department to which transfer is made: *Provided*, That such vessels, equipment, stations, and commissioned officers shall be returned to the National Oceanic and Atmospheric Administration when such national emergency ceases, in the opinion of the President, and nothing in this Act shall be construed as transferring the National Oceanic and Atmospheric Administration or any of its functions from the Department of Commerce except in time of national emergency and to the extent herein provided: *Provided further*, That any of the commissioned officers of the National Oceanic and Atmospheric Administration who may be transferred as provided in this section, shall while under the jurisdiction of a military department, have proper military status and shall be subject to the laws, regulations, and orders for the government of the Army, Navy, or Air Force, as the case may be, insofar as the same may be applicable to persons whose retention permanently in the military service of the United States is not contemplated by law.

(May 22, 1917, ch. 20, § 16, 40 Stat. 87; Oct. 14, 1966, Pub. L. 89-657, § 1(1), 80 Stat. 907; 1965 Reorg. Plan No. 2, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318; Oct. 14, 1966, Pub. L. 89-657, § 1(1), 80 Stat. 907; 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090.)

References in Text

"This Act" and "herein", referred to in text, mean act May 22, 1917, ch. 20, 40 Stat. 84, which, insofar as it was classified to the Code, enacted sections 854, 855, 856, 857 and 858 of this title, and sections 1, 152, 212 to 216, 280, 284, 297, 322, 323, 424, 425, 640, and 864 of former Title 34, Navy, and amended section 96 of former Title 18, Criminal Code and Criminal Procedure. For complete classification of this Act to the Code, see Tables volume.

Codification

Section is part of section 16 of act May 22, 1917. Said section 16 is also classified to sections 854, 856, 857, and 858 of this title.

Amendments

1966—Pub. L. 89-657 substituted military departments for Department of the Army and Navy Department as the agencies to which transfer of jurisdiction may be made in a national emergency, substituted commissioned officers of the Environmental Science Services Administration for personnel of the Coast and Geodetic Survey as the personnel subject to transfer in a national emergency, and added the Air Force to the Army and Navy as the department to which the transferred personnel shall be subject.

Transfer of Functions

The Coast and Geodetic Survey was consolidated with the Weather Bureau to form a new agency in the Department of Commerce to be known as the Environmental Science Services Administration, and the commissioned officers of the Survey were transferred to ESSA, by Reorg. Plan No. 2 of 1965, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318, set out as a note under section 851 of this title. The Reorg. Plan also transferred to the Secretary of Commerce all functions of the Coast and Geodetic Survey and the Director of the Survey. Subsequently, the Environmental Science Services Administration was abolished, the National Oceanic and Atmospheric Administration was established, and the Commissioned Officer Corps of ESSA was redesignated the Commissioned Officer Corps of NOAA by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, set out in the Appendix to Title 5, Government Organization and Employees. For further details, see Transfer of Functions note under section 851 of this title.

Delegation of Functions

Functions of the President under this section delegated to the Secretary of Commerce, see section 1(k) of Ex. Ord. No. 11023, May 28, 1962, 27 F.R. 5131, set out as a note under section 301 of Title 3, The President.

Transfer of Officers and Vessels

By reason of the national emergency certain vessels of the Coast and Geodetic Survey were transferred to the jurisdiction of the Navy Department and certain officers of the Survey were transferred to the jurisdiction of the Navy and War Departments by Ex. Ord. No. 9072, Feb. 24, 1942, 7 F.R. 1531; Ex. Ord. No. 9113, Mar. 28, 1942, 7 F.R. 2495; Ex. Ord. No. 9187, June 30, 1942, 7 F.R. 5035; Ex. Ord. No. 9236, Sept. 3, 1942, 7 F.R. 6988.

Termination of War and Emergencies

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of sections 855, 856, 857, and 858 of this title, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by the Congress and of the national emergencies proclaimed by the President on Sept. 8, 1939, and May 27, 1941.

Reduction in Rank, Pay, or Allowances

Section 13 of act May 22, 1917, provided that "Nothing contained in this Act [see References in Text note above] shall operate to reduce the rank, pay, or allowances that would have been received by any person in the Navy, Marine Corps, or Coast Guard except for the passage of this Act."

Section Referred to in Other Sections

This section is referred to in section 854a-1 of this title.

§ 855a. Repealed. Pub. L. 85-857, § 14(79), Sept. 2, 1958, 72 Stat. 1272

Section, acts Dec. 3, 1942, ch. 670, § 2, 56 Stat. 1038; Aug. 16, 1954, ch. 738, 68 Stat. 730, related to rights and benefits of commissioned officers of the Coast and Geodetic Survey assigned to projects of the Army and Navy outside the continental United States or in hazardous military areas.

Effective Date of Repeal

Repeal by Pub. L. 85-857 effective Jan. 1, 1959, see section 2 of Pub. L. 85-857, set out as an Effective Date note preceding Part I of Title 38, Veterans' Benefits.

§ 856. Relative rank of officers when serving with Army, Navy, or Air Force

When serving with the Army, Navy, or Air Force, commissioned officers of the National Oceanic and Atmospheric Administration shall rank with and after officers of corresponding grade in the Army, Navy, or Air Force of the same length of service in grade.

And nothing in this Act shall be construed to affect or alter their rates of pay and allowances when not assigned to military duty as hereinbefore mentioned.

(May 22, 1917, ch. 20, § 16, 40 Stat. 88; June 21, 1955, ch. 172, § 2(b), 69 Stat. 169; 1965 Reorg. Plan No. 2, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318; 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090.)

REFERENCES IN TEXT

"This Act", referred to in text, means act May 22, 1917, ch. 20, 40 Stat. 84, which, insofar as it was classified to the Code, enacted sections 854, 855, 856, 857 and 858 of this title, and sections 1, 152, 212 to 216, 280, 284, 297, 322, 323, 424, 425, 640 and 864 of former Title 34, Navy, and amended section 96 of former Title 18, Criminal Code and Criminal Procedure. For complete classification of this Act to the Code, see Tables volume.

CODIFICATION

Section is part of section 16 of act May 22, 1917. Said section 16 is also classified to sections 854, 855, 857, and 858 of this title.

AMENDMENTS

1955—Act June 21, 1955, provided that officers of the Coast and Geodetic Survey shall rank with and after officers of the corresponding grade of the same length of service in grade.

TRANSFER OF FUNCTIONS

The Coast and Geodetic Survey was consolidated with the Weather Bureau to form a new agency in the Department of Commerce to be known as the Environmental Science Services Administration, and the commissioned officers of the Survey were transferred to ESSA, by Reorg. Plan No. 2 of 1965, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318, set out as a note under section 851 of this title. The Reorg. Plan also transferred to the Secretary of Commerce all functions of the Coast and Geodetic Survey and the Director of the Survey. Subsequently, the Environmental Science Services Administration was abolished, the National Oceanic and Atmospheric Administration was established, and the Commissioned Officer Corps of ESSA was redesignated the Commissioned Officer Corps of NOAA by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, set out in the Appendix to Title 5, Government Organization and Employees. For further details, see Transfer of Functions note under section 851 of this title.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of sections 855, 856, 857, and 858 of this title, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by the Congress and of the national emergencies proclaimed by the President on Sept. 8, 1939, and May 27, 1941.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 854a-1 of this title.

§ 857. Service for purposes of servicemen's and veterans' benefits

Active service of commissioned officers of the National Oceanic and Atmospheric Administration shall be deemed to be active military service for the purposes of all laws administered by the Veterans' Administration (except the Servicemen's Indemnity Act of 1951) and section 417 of title 42, and for the purposes of section 410 of title 42 as in effect prior to the Social Security Act Amendments of 1950.

(May 22, 1917, ch. 20, § 16, 40 Stat. 88; Aug. 1, 1956, ch. 837, title V, § 501(d)(1), 70 Stat. 883; 1965 Reorg. Plan No. 2, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318; 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090.)

REFERENCES IN TEXT

The Servicemens' Indemnity Act of 1951, referred to in text, is act Apr. 25, 1951, ch. 39, pt. I, 65 Stat. 33, which was classified generally to subchapter II (§ 851 et seq.) of chapter 13 of former Title 38, Pensions, Bonuses, and Veterans' Relief, and was repealed by act Aug. 1, 1956, ch. 837, title V, § 502(9), 70 Stat. 886.

Section 410 of title 42 as in effect prior to the Social Security Act Amendments of 1950, referred to in text, means section 410 of title 42 as in effect prior to Sept. 1, 1950, which was the effective date of section 105 of act Aug. 28, 1950, ch. 809, title I, 64 Stat. 492, which struck out the former provisions of section 410.

CODIFICATION

Section is part of section 16 of Act May 22, 1917. Said section 16 is also classified to sections 854, 855, 856 and 858 of this title.

AMENDMENTS

1956—Act Aug. 1, 1956, substituted provision that active service of commissioned officers shall be deemed to be active military service for the purposes of all laws administered by the Veterans' Administration (except the Servicemen's Indemnity Act of 1951) and section 417 of title 42, and for the purposes of section 410 of title 42 as in effect prior to the Social Security Act Amendments of 1950 for former provision granting the benefit of all provisions of law relating to disability incurred in line of duty or loss of life to members of the Coast and Geodetic Survey while actually employed in active service under orders of the War or Navy Department.

EFFECTIVE DATE OF 1956 AMENDMENT; APPLICABILITY

Section 501(d)(2) of act Aug. 1, 1956, provided that: "The amendment made by this subsection [to this section] (A) shall apply only with respect to service performed on or after July 29, 1945, (B) shall not be construed to affect the entitlement of any person to benefits under the Veterans' Readjustment Assistance Act of 1952 [section 901 et seq. of former Title 38, Pensions, Bonuses and Veterans' Relief], (C) shall not be construed to authorize any payment under section 202(i) of the Social Security Act [section 402(i) of Title 42, The Public Health and Welfare], or under Veterans Regulation Numbered 9(a) [formerly classified to Chapter 12A of former title 38], for any death occurring prior to January 1, 1957, and (D) shall not be construed to authorize payment of any benefits for any period prior to January 1, 1957."

TRANSFER OF FUNCTIONS

The Coast and Geodetic Survey was consolidated with the Weather Bureau to form a new agency in the Department of Commerce to be known as the Environmental Science Services Administration, and the commissioned officers of the Survey were transferred to ESSA, by Reorg. Plan No. 2 of 1965, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318, set out as a note under sec-

tion 851 of this title. The Reorg. Plan also transferred to the Secretary of Commerce all functions of the Coast and Geodetic Survey and the Director of the Survey. Subsequently, the Environmental Science Services Administration was abolished, the National Oceanic and Atmospheric Administration was established, and the Commissioned Officer Corps of ESSA was redesignated the Commissioned Officer Corps of NOAA by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, set out in the Appendix to Title 5, Government Organization and Employees. For further details, see Transfer of Functions note under section 851 of this title.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of sections 855, 856, 857, and 858 of this title, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by the Congress and of the national emergencies proclaimed by the President on Sept. 8, 1939, and May 27, 1941.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 854a-1 of this title.

§ 857-1. National Oceanic and Atmospheric Administration; definitions

Definitions listed in section 101 of title 10 apply to this Act, except as noted below:

(1) "active duty" means full-time duty in the active service of a uniformed service;

(2) "Administration" means the National Oceanic and Atmospheric Administration;

(3) "grade" means a step or degree, in a graduated scale of office or rank, that is established and designated as a grade by law or regulation;

(4) "officer" means a commissioned officer;

(5) "Secretary" means the Secretary of Commerce;

(6) "Secretary concerned" is defined in section 101 of title 37;

(7) "uniformed services" is defined in section 101 of title 37.

(Pub. L. 91-621, § 1, Dec. 31, 1970, 84 Stat. 1863.)

REFERENCES IN TEXT

"This Act", referred to in text, means Pub. L. 91-621, Dec. 31, 1970, 84 Stat. 1863, which enacted sections 857-1 to 857-5 of this title, amended sections 1715g and 1715m of Title 12, Banks and Banking, and sections 101 and 3105 of Title 38, Veterans' Benefits, and enacted provisions set out as notes under this section and section 101 of Title 38. For complete classification of this Act to the Code, see Tables volume.

REPEALS

Section 8 of Pub. L. 91-621 provided that: "All provisions of law inconsistent with this Act [which enacted sections 857-1 to 857-5 of this title, amended sections 1715g and 1715m of Title 12, Banks and Banking, and sections 101 and 3105 of Title 38, Veterans' Benefits, and enacted provision set out as a note under this section and section 101 of title 38] are hereby repealed."

§ 857-2. Retirement of officers; retired grade; retired pay; conditions: satisfactory service, length of service

Each officer retired pursuant to any provision of law shall be placed on the retired list with the highest grade satisfactorily held by him while on active duty including active duty pursuant to recall, under permanent or temporary appointment, and he shall receive retired pay based on such highest grade: *Provided*, That his performance of duty in such highest grade has been satisfactory, as determined by the Secretary of the department or departments under whose jurisdiction the officer served, and, unless retired for disability, his length of service in such highest grade is no less than that required by the Secretary of officers retiring under permanent appointment in that grade.

(Pub. L. 91-621, § 2, Dec. 31, 1970, 84 Stat. 1863.)

§ 857-3. Service for purposes of certain rights, privileges, immunities, and benefits; exercise of authority by Secretary of Commerce

Active service of officers of the Administration shall be deemed to be active military service in the armed forces of the United States for the purposes of all rights, privileges, immunities, and benefits now or hereafter provided by—

(1) laws administered by the Veterans' Administration;

(2) laws administered by the Interstate Commerce Commission; and

(3) the Soldiers' and Sailors' Civil Relief Act of 1940, as amended [50 App. U.S.C. 501 et seq.].

In the administration of these laws and regulations, with respect to the National Oceanic and Atmospheric Administration, the authority vested in the Secretary of Defense, the Secretary of the Army, the Secretary of the Navy, and the Secretary of the Air Force and their respective departments shall be exercised by the Secretary of Commerce.

(Pub. L. 91-621, § 3, Dec. 31, 1970, 84 Stat. 1863.)

REFERENCES IN TEXT

The Soldiers' and Sailors' Civil Relief Act of 1940, as amended, referred to in par. (3), is act Oct. 17, 1940, ch. 888, 54 Stat. 1178, as amended, which is classified to sections 501 et seq. of Title 50, App., War and National Defense. For complete classification of this Act to the Code, see section 501 of Title 50, App., and Tables volume.

§ 857-4. Commissary privileges

(a) Extension of privilege

Commissioned officers, ships' officers, and members of crews of vessels of the Administration shall be permitted to purchase commissary and quartermaster supplies as far as available from the armed forces at the prices charged officers and enlisted men of those services.

(b) Sales of rations, stores, uniforms, and related equipment

The Secretary may purchase ration supplies for messes, stores, uniforms, accouterments, and related equipment for sale aboard ship and shore stations of the Administration to members of the uniformed services and to personnel assigned to such ships or shore stations. Sales shall be in accordance with regulations prescribed by the Secretary, and proceeds therefrom shall, as far as is practicable, fully reimburse the appropriations charged without regard to fiscal year.

(c) Widows' rights

Rights extended to members of the uniformed services in this section are extended to their widows and to such others as are designated by the Secretary concerned.

(Pub. L. 91-621, § 4, Dec. 31, 1970, 84 Stat. 1863.)

PRIOR PROVISIONS

Provisions now contained in subsec. (a) were formerly contained in section 868a of this title.

§ 857-5. General provisions

(a) Statutes applicable to officers of the Environmental Science Services Administration; service in Coast and Geodetic Survey as service in such Administration

All statutes that applied to commissioned officers of the Coast and Geodetic Survey on July 12, 1965, shall apply to officers of the Environmental Science Services Administration on that date and subsequent thereto, unless amended or repealed, and service as a commissioned officer in the Coast and Geodetic Survey shall constitute service as a commissioned officer in the Environmental Science Services Administration.

(b) Statutes applicable to officers of the Environmental Science Services Administration; service in certain agencies as service in the National Oceanic and Atmospheric Administration

All statutes that applied to commissioned officers of the Coast and Geodetic Survey on July 12, 1965, and to commissioned officers of the Environmental Science Services Administration subsequent to that date shall apply to officers of the National Oceanic and Atmospheric Administration on October 3, 1970, and subsequent thereto, unless amended or repealed, and service as a commissioned officer in the Coast and Geodetic Survey or the Environmental Science Services Administration shall constitute service as a commissioned officer in the National Oceanic and Atmospheric Administration.

(c) Change in pay or allowances

The enactment of this Act does not increase or decrease the pay or allowances of any person.

(d) References in other laws, regulations, and orders

A reference to a law replaced by this Act, including a reference in a regulation, order, or other law, is deemed to refer to the corresponding provisions enacted by this Act.

(e) Rules, regulations, and orders; continuing effect

An order, rule, or regulation in effect under a law replaced by this Act continues in effect under the corresponding provisions enacted by this Act until repealed, amended, or superseded.

(f) Construction of provisions; arrangement and headings

An inference of a legislative construction is not to be drawn by reason of the location in the United States Code of a provision enacted by this Act or by reason of the caption or catchline thereof.

(g) Separability of provisions

If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected thereby.

(Pub. L. 91-621, § 5, Dec. 31, 1970, 84 Stat. 1864.)

REFERENCES IN TEXT

"This Act", referred to in subsecs. (c) to (g), means Pub. L. 91-621, Dec. 31, 1970, 84 Stat. 1863, which enacted sections 857-1 to 857-5 of this title, amended sections 1715g and 1715m of Title 12, Banks and Banking, and sections 101 and 3105 of Title 38, Veterans' Benefits, and enacted provisions set out as notes under section 857-1 of this title and section 101 of Title 38. For complete classification of this Act to the Code, see Tables volume.

§ 857-6. National Advisory Committee on Oceans and Atmosphere; establishment

There is hereby established a committee of twenty-five members to be known as the National Advisory Committee on Oceans and Atmosphere (hereafter referred to in sections 857-6 to 857-12 of this title as the "Advisory Committee").

(Pub. L. 92-125, § 1, Aug. 16, 1971, 85 Stat. 344.)

TERMINATION OF ADVISORY COMMITTEES

Advisory Committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the two-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law, see section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 857-11, 857-12 of this title.

§ 857-7. Membership

(a) Appointment; representation

The members of the Advisory Committee, who may not be full-time officers or employees of the United States, shall be appointed by the President and shall be drawn from State and local government, industry, science, and other appropriate areas.

(b) Term of office

Except as provided in subsections (c) and (d) of this section, members shall be appointed for terms of three years.

(c) Term of original appointees

Of the members first appointed, as designated by the President at the time of appointment—

(1) nine shall be appointed for a term of one year,

(2) eight shall be appointed for a term of two years, and

(3) eight shall be appointed for a term of three years.

(d) Vacancies; service beyond term

Any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. A member may serve after the expiration of his term until his successor has taken office.

(e) Chairman; Vice Chairman

The President shall designate one of the members of the Advisory Committee as the Chairman and one of the members as the Vice Chairman. The Vice Chairman shall act as Chairman in the absence or incapacity of, or in the event of a vacancy in the office of, the Chairman.

(Pub. L. 92-125, § 2, Aug. 16, 1971, 85 Stat. 344.)

TERMINATION OF ADVISORY COMMITTEES

Advisory Committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the two-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law, see section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 857-6, 857-11, 857-12 of this title.

§ 857-8. Senior policy officials as Federal observers and aids

Each department and agency of the Federal Government concerned with marine and atmospheric matters shall designate a senior policy official to participate as observer in the work of the Advisory Committee and to offer necessary assistance.

(Pub. L. 92-125, § 3, Aug. 16, 1971, 85 Stat. 344.)

TERMINATION OF ADVISORY COMMITTEES

Advisory Committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the two-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law, see section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 857-6, 857-11, 857-12 of this title.

§ 857-9. Duties; reports to President and Congress

The Advisory Committee shall (1) undertake a continuing review of national ocean policy, coastal zone management, and the progress of the marine and atmospheric science and service programs of the United States, and (2) advise the Secretary of Commerce with respect to the carrying out of the purpose of the National Oceanic and Atmospheric Administration. The Advisory Committee shall submit a comprehensive annual report to the President and to the Congress setting forth an overall assessment of the status of the Nation's marine and atmospheric activities and shall submit such other reports as may from time to time be requested by the President and the Congress. Each such report shall be submitted to the Secretary of Commerce who shall, within 90 days after receipt thereof, transmit copies to the President and to the Congress, with his comments and recommendations. The comprehensive annual report required herein shall be submitted on or before June 30 of each year, beginning June 30, 1972.

(Pub. L. 92-125, § 4, Aug. 16, 1971, 85 Stat. 344; Pub. L. 94-69, § 2, Aug. 5, 1975, 89 Stat. 384.)

REFERENCES IN TEXT

"Herein", referred to in text, means Pub. L. 92-125, Aug. 16, 1971, 85 Stat. 344, which is classified to sections 857-6 to 857-12 of this title. For complete classification of this Act to the Code, see Tables volume.

AMENDMENTS

1975—Pub. L. 94-69 added "national ocean policy, coastal zone management, and" following "review of", and substituted "requested by the President and the Congress" for "requested by the President".

TERMINATION OF ADVISORY COMMITTEES

Advisory Committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the two-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law, see section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 857-6, 857-11, 857-12 of this title.

§ 857-10. Compensation and travel expenses

Members of the Advisory Committee shall, while serving on business of the Committee, be entitled to receive compensation at rates not to exceed $100 per diem, including traveltime, and while so serving away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as the expenses authorized by section 5703(b) of title 5 for persons in Government service employed intermittently.

(Pub. L. 92-125, § 5, Aug. 16, 1971, 85 Stat. 344.)

REFERENCES IN TEXT

Section 5703 of title 5, referred to in text, was amended generally by Pub. L. 94-22, § 4, May 19, 1975, 89 Stat. 85, and as so amended does not contain a subsec. (b).

TERMINATION OF ADVISORY COMMITTEES

Advisory Committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the two-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law, see section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 857-6, 857-11, 857-12 of this title.

§ 857-11. Department of Commerce and other Federal agencies, assistance

The Secretary of Commerce shall make available to the Advisory Committee such staff, information, personnel and administrative services and assistance as it may reasonably require to carry out its activities. The Advisory Committee is authorized to request from any department, agency, or independent instrumentality of the Federal Government any information and assistance it deems necessary to carry out its functions under sections 857-6 to 857-12 of this title; and each such department, agency, and instrumentality is authorized to cooperate with the Advisory Committee and, to the extent permitted by law, to furnish such information and assistance to the Advisory Committee upon request made by its Chairman, without reimbursement for such services and assistance.

(Pub. L. 92-125, § 6, Aug. 16, 1971, 85 Stat. 345.)

TERMINATION OF ADVISORY COMMITTEES

Advisory Committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the two-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law, see section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 857-6, 857-12 of this title.

§ 857-12. Authorization of appropriations

There are hereby authorized to be appropriated to the Secretary of Commerce such sums as may be necessary for expenses incident to the administration of sections 857-6 to 857-12 of this title, not to exceed the following amounts: (1) $400,000 for the fiscal year ending June 30, 1973, and for each of the 2 fiscal years immediately thereafter; (2) $445,000 for the fiscal year ending June 30, 1976; (3) $111,250 for the transitional period (July 1 through September 30, 1976); and (4) $445,000 for the fiscal year ending September 30, 1977.

(Pub. L. 92-125, § 7, Aug. 16, 1971, 85 Stat. 345; Pub. L. 92-567, Oct. 25, 1972, 86 Stat. 1181; Pub. L. 94-69, § 1, Aug. 5, 1975, 89 Stat. 384.)

AMENDMENTS

1975—Pub. L. 94-69 substituted provisions authorizing to be appropriated not to exceed $445,000 for the fiscal year ending June 30, 1976, $111,250 for the transition period (July 1 through Sept. 30, 1976), and $445,000 for the fiscal year ending Sept. 30, 1977 for provisions authorizing to be appropriated for succeeding fiscal years only such sums as may be authorized by law.

1972—Pub. L. 92-567 deleted appropriations authorization of $200,000 for fiscal year ending June 30, 1972, substituted authorization of not to exceed $400,000 for fiscal years ending June 30, 1973, 1974, and 1975, for prior authorization of $200,000 for fiscal years ending June 30, 1973, and succeeding fiscal years, and provided for such sums as may be authorized by law for succeeding fiscal years.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 857-6, 857-11 of this title.

§ 857a. Rights, benefits, privileges, and immunities; exercise of authority by Secretary of Commerce or designee

(a) The rules of law that apply to the Armed Forces under the following provisions of title 10, including changes in those rules made after August 10, 1956, apply also to the commissioned officers of the National Oceanic and Atmospheric Administration:

(1) Section 1036, Escorts for dependents of members: transportation and travel allowances.

(2) Chapter 61, Retirement or Separation for Physical Disability.

(3) Chapter 69, Retired Grade, except sections 1374, 1375, and 1376(a).

(4) Chapter 71, Computation of Retired Pay, except formula No. 3 of section 1401.

(5) Chapter 73, Retired Serviceman's Family Protection Plan; Survivor Benefit Plan.

(6) Chapter 75, Death Benefits.

(7) Section 2771, Final settlement of accounts: deceased members.

(8) Sections 2731, 2732, and 2735, property loss incident to service.

(9) Such other provisions of subtitle A as may be adopted for applicability to the commissioned officers of the National Oceanic and Atmospheric Administration by any other provision of law.

(10) Chapter 40, Leave.

(11) Section 2634, Motor vehicles: for members on permanent change of station.

(12) Section 1035, Deposits of Savings.

(b) The authority vested by title 10 in the "military department", "the Secretary concerned", or "the Secretary of Defense" with respect to the provisions of law referred to in subsection (a) of this section shall be exercised, with respect to the National Oceanic and Atmospheric Administration by the Secretary of Commerce or his designee.

(Aug. 10, 1956, ch. 1041, § 3, 70A Stat. 619; Sept. 2, 1958, Pub. L. 85-861, § 3, 72 Stat. 1546; Aug. 14, 1959, Pub. L. 86-160, § 2, 73 Stat. 358; Sept. 14, 1961, Pub. L. 87-233, § 4, 75 Stat. 507; Sept. 7, 1962, Pub. L. 87-649, § 9(a), 76 Stat. 495; Oct. 2, 1963, Pub. L. 88-132, § 5(k), 77 Stat. 214; Aug. 14, 1964, Pub. L. 88-431, § 1(c)(1), 78 Stat. 439; 1965 Reorg. Plan No. 2, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318; Aug. 14, 1966, Pub. L. 89-538, § 3(a), 80 Stat. 348; 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090; Sept. 21, 1972, Pub. L. 92-425, § 5, 86 Stat. 713.)

REFERENCES IN TEXT

Section 2732 of title 10, referred to in subsec. (a)(8) was repealed by Pub. L. 88-558, § 5(3), Aug. 31, 1964, 78 Stat. 768, and the provisions are now covered by section 240 et seq. of Title 31, Money and Finance.

CODIFICATION

Section was formerly classified to section 316 of Title 37 prior to the general revision and enactment of Title 37, Pay and Allowances of the Uniformed Services by Pub. L. 87-649, § 1, Sept. 7, 1962, 76 Stat. 451.

AMENDMENTS

1972—Subsec. (a). Pub. L. 92-425 substituted "Retired Serviceman's Family Protection Plan; Survivor Benefit Plan" for "Annuities Based on Retired or Retainer Pay" in cl. (5).

1966—Subsec. (a). Pub. L. 89-538 added cl. (12).

1964—Subsec. (a). Pub. L. 88-431 added cl. (11).

1963—Subsec. (b). Pub. L. 88-132 included reference to the Secretary of Defense.

1962—Subsec. (a). Pub. L. 87-649 added cl. (10).

1961—Subsec. (a). Pub. L. 87-233 added clause (8) and redesignated former clause (8) as (9).

1959—Subsec. (a). Pub. L. 86-160 added clause (1) and renumbered former cls. (1) to (7) as (2) to (8).

1958—Subsec. (a). Pub. L. 85-861, inserted a reference to section 1374 in cl. (2), eliminated "Care of the Dead" which followed "Benefits" in cl. (5), added cl. (6), and renumbered former cl. (6) as (7).

EFFECTIVE DATE OF 1963 AMENDMENT

Amendment by Pub. L. 88-132 effective Oct. 1, 1963, see section 14 of Pub. L. 88-132, set out as an Effective Date of 1963 Amendment note under section 201 of Title 37, Pay and Allowances of the Uniformed Services.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87-649 effective on Nov. 1, 1962, see section 15 of Pub. L. 87-649, set out as an Effective Date note preceding section 101 of Title 37, Pay and Allowances of the Uniformed Services.

TRANSFER OF FUNCTIONS

The Coast and Geodetic Survey was consolidated with the Weather Bureau to form a new agency in the Department of Commerce to be known as the Environmental Science Services Administration, and the commissioned officers of the Survey were transferred to ESSA, by Reorg. Plan No. 2 of 1965, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318, set out as a note under section 851 of this title. The Reorg. Plan also transferred to the Secretary of Commerce all functions of the Coast and Geodetic Survey and the Director of the Survey. Subsequently, the Environmental Science Services Administration was abolished, the National Oceanic and Atmospheric Administration was established, and the Commissioned Officer Corps of ESSA was redesignated the Commissioned Officer Corps of NOAA by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, set out in the Appendix to Title 5, Government Organization and Employees. For further details, see Transfer of Functions note under section 851 of this title.

DESIGNATION OF BENEFICIARY MADE BEFORE JANUARY 1, 1956

Designation of beneficiary made before Jan. 1, 1956, considered as the designation of a beneficiary for the purposes of section 3 of Pub. L. 85-861, which amended this section, see note set out under section 2771 of Title 10, Armed Forces.

RULES AND REGULATIONS: SAVINGS DEPOSIT BENEFITS

Regulations prescribed by the Secretary of Commerce concerning savings deposit benefits for Coast and Geodetic Survey personnel to be prescribed jointly with regulations prescribed by the Secretaries concerned under section 1035 of Title 10, Armed Forces, see section 3(c) of Pub. L. 89-538, set out as a note under section 1035 of Title 10, Armed Forces.

BACK PAYMENTS: VALIDATION; APPLICATION; LIMITATIONS; ACCOUNTABILITY OF DISBURSING OFFICERS; REGULATIONS

Transportation and travel allowances to escorts for dependents of members, see sections 4 to 7 of Pub. L. 86-160, set out as a note under section 1036 of Title 10, Armed Forces.

§ 858. Rules and regulations when cooperating with military departments

The Secretary of Defense and the Secretary of Commerce shall jointly prescribe regulations governing the duties to be performed by the National Oceanic and Atmospheric Administration in time of war, and for the cooperation of that service with the military departments in time of peace in preparation for its duties in war, which regulations shall not be effective unless approved by each of those Secretaries, and included therein may be rules and regulations for making reports and communications between a military department and the National Oceanic and Atmospheric Administration.

(May 22, 1917, ch. 20, § 16, 40 Stat. 88; 1965 Reorg. Plan No. 2, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318; Oct. 14, 1966, Pub. L. 89-657, § 1(2), 80 Stat. 907; 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090.)

CODIFICATION

Section is part of section 16 of act May 22, 1917. Said section 16 is also classified to sections 854, 855, 856 and 857 of this title.

AMENDMENTS

1966—Pub. L. 89-657 substituted the Secretary of Defense for the Secretary of the Army and the Secretary of the Navy as the Secretary designated to prescribe regulations jointly with the Secretary of Commerce, the Environmental Science Services Administration for the Coast and Geodetic Survey as the agency involved, and the military departments for the Department of the Army and the Navy Department as the departments with which the Environmental Science Services Administration shall cooperate.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

TRANSFER OF FUNCTIONS

The Coast and Geodetic Survey was consolidated with the Weather Bureau to form a new agency in the Department of Commerce to be known as the Environmental Science Services Administration, and the commissioned officers of the Survey were transferred to ESSA, by Reorg. Plan No. 2 of 1965, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318, set out as a note under section 851 of this title. The Reorg. Plan also transferred to the Secretary of Commerce all functions of the Coast and Geodetic Survey and the Director of the Survey. Subsequently, the Environmental Science Services Administration was abolished, the National Oceanic and Atmospheric Administration was established, and the Commissioned Officer Corps of ESSA was redesignated the Commissioned Officer Corps of NOAA by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, set out in the Appendix to Title 5, Government Organization and Employees. For further details, see Transfer of Functions note under section 851 of this title.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of sections 855, 856, 857, and 858 of this title, the date July 25, 1947, shall be deemed to be the date of termination of any

state of war theretofore declared by the Congress and of the national emergencies proclaimed by the President on Sept. 8, 1939, and May 27, 1941.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 854a-1 of this title.

§ 859. Repealed. June 16, 1942, ch. 413, § 19, 56 Stat. 369, eff. June 1, 1942

Section, act June 10, 1922, ch. 212, 42 Stat. 625-633, related to pay and allowances of commissioned officers.

§ 860. Repealed. Pub. L. 87-649, § 14b, Sept. 7, 1962, 76 Stat. 499

Section, act May 18, 1920, ch. 190, § 11 (words before the first semicolon), 41 Stat. 603, made pay and allowances of naval officers applicable to Coast and Geodetic Survey generally.

§ 861. Omitted

CODIFICATION

Section, acts Feb. 27, 1925, ch. 364, title III, 43 Stat. 1046; Apr. 29, 1926, ch. 195, title III, 44 Stat. 362, related to expenses of officers of the Coast and Geodetic Survey when traveling on Government owned vessels, and has been omitted from the Code as obsolete. See now sections 404 to 411 of Title 37, Pay and Allowances of the Uniformed Services.

§ 861a. Repealed. Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641

Section, act May 18, 1920, ch. 190, § 12, 41 Stat. 604, related to transportation for families of officers and enlisted men on permanent change of station.

§§ 861b, 861c. Omitted

CODIFICATION

Section 861b, act Feb. 21, 1929, ch. 288, 45 Stat. 1254, defined the terms "child" and "children" as formerly used in section 861a of this title, and has been omitted from the Code as obsolete, in view of the repeal of section 861a.

Section 861c, act June 24, 1935, ch. 291, § 3, 49 Stat. 421, defined the phrase "permanent change in station" as formerly used in section 861a of this title, and has been omitted from the Code as obsolete, in view of the repeal of section 861a.

§ 862. Repealed. Pub. L. 87-649, § 14b, Sept. 7, 1962, 76 Stat. 498

Section, acts Mar. 4, 1907, ch. 2918, § 1, 34 Stat. 1322; Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736; June 21, 1955, ch. 172, § 1, 69 Stat. 169; Sept. 26, 1961, Pub. L. 87-304, § 9(b), 75 Stat. 665, authorized commissioned officers of the Coast and Geodetic Survey to make assignments or allotments of their pay, and is now covered by section 706 of Title 37, Pay and Allowances of the Uniformed Services.

§ 862a. Repealed. Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641

Section, acts Mar. 2, 1923, ch. 178, title I, 42 Stat. 1385; Aug. 4, 1949, ch. 393, § 11, 63 Stat. 559, prohibited the issuance of heat or light in kind to any person in the Coast and Geodetic Survey while such person is receiving an allowance for rental of quarters.

§ 863. Repealed. June 21, 1955, ch. 172, § 5(4), 69 Stat. 170

Section, acts Mar. 4, 1909, ch. 299, § 1, 35 Stat. 974; Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736, related to leaves of absence of officers of the Coast and Geodetic Survey on duty in the Philippine Islands.

§ 864. Retirement of officers generally

All laws relating to the retirement of commissioned officers of the Navy shall, after May 18, 1920, apply to commissioned officers of the National Oceanic and Atmospheric Administration.

(May 18, 1920, ch. 190, § 11, 41 Stat. 603; 1965 Reorg. Plan No. 2, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318; 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090.)

CODIFICATION

Section is based on section 11 (words between the first semicolon and the proviso) of act May 18, 1920. Section 11 (words before the first semicolon) of the 1920 act, which was classified to section 860 of this title, was repealed by Pub. L. 87-649, § 14(b), Sept. 7, 1962, 76 Stat. 499. Section 11 (proviso) of the 1920 act, which was classified to section 683 of former Title 10, Army; section 864a of this title; section 879b of former Title 34, Navy; section 4a of former Title 37, Pay and Allowances; and section 62 of Title 42, The Public Health and Welfare; was repealed by act Aug. 10, 1956 ch. 1041, § 53, 70A Stat. 662.

TRANSFER OF FUNCTIONS

The Coast and Geodetic Survey was consolidated with the Weather Bureau to form a new agency in the Department of Commerce to be known as the Environmental Science Services Administration, and the commissioned officers of the Survey were transferred to ESSA, by Reorg. Plan No. 2 of 1965, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318, set out as a note under section 851 of this title. The Reorg. Plan also transferred to the Secretary of Commerce all functions of the Coast and Geodetic Survey and the Director of the Survey. Subsequently, the Environmental Science Services Administration was abolished, the National Oceanic and Atmospheric Administration was established, and the Commissioned Officer Corps of ESSA was redesignated the Commissioned Officer Corps of NOAA by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, set out in the Appendix to Title 5, Government Organization and Employees. For further details, see Transfer of Functions note under section 851 of this title.

CROSS REFERENCES

Navy officers—
Involuntary retirement generally, see section 6371 et seq. of Title 10, Armed Forces.
Voluntary retirement generally, see section 6321 et seq. of Title 10.

§ 864a. Repealed. Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641

Section, act May 18, 1920, ch. 190, §§ 11 (proviso), 14, 41 Stat. 604, related to service credits in computing longevity pay of officers of the Coast and Geodetic Survey.

§§ 864b, 864c. Repealed. June 3, 1948, ch. 390, § 21(a), 62 Stat. 300

Section 864b, act Jan. 19, 1942, ch. 6, § 5, 56 Stat. 7, related to retirement of officers, and is now covered by sections 853k, 853l of this title. See, also, sections 1401 et seq., 6321 et seq., and 6371 et seq. of Title 10, Armed Forces.

Section 864c, act Jan. 19, 1942, ch. 6, § 7, 56 Stat. 8, related to pay of officers retired upon recommendation of Personnel Board and is now covered by sections 853o to 853q of this title.

§ 864d. Repealed. Oct. 12, 1949, ch. 681, title V, § 531(b)(31), 63 Stat. 839, eff. Oct. 1, 1949

Section, acts Jan. 19, 1942, ch. 6, § 7, 56 Stat. 8; June 3, 1948, ch. 390, § 21(b), 62 Stat. 300, related to rank or pay of officers retired for duty incurred disability. See sections 1201 et seq., 1371 et seq., and 1401 et seq. of Title 10, Armed Forces.

§ 864e. Repealed. Pub. L. 86-465, § 1, May 13, 1960, 74 Stat. 130

Section, acts June 6, 1942, ch. 383, 56 Stat. 328; Aug. 4, 1949, ch. 393, § 15, 63 Stat. 560; Oct. 12, 1949, ch. 681, title V, § 522(b), 63 Stat. 836, provided that certain commissioned officers of the Coast and Geodetic Survey who have been specially commended for performance of duty in actual combat prior to Dec. 31, 1946, shall, upon retirement, be placed upon the retired list one grade higher than the grade in which they were serving at the time of retirement.

EFFECTIVE DATE OF REPEAL

Section 2 of Pub. L. 86-465 provided that: "This Act [repealing this section] becomes effective on November 1, 1959."

§ 865. Omitted

CODIFICATION

Section, acts May 28, 1924, ch. 203, 43 Stat. 194; Feb. 11, 1925, ch. 209, 43 Stat. 872; May 21, 1926, ch. 355, 44 Stat. 604, related to computation of length of service of officers, expired with the appropriation acts of which it was a part, and has been omitted from the Code.

§ 866. Repealed. Aug. 6, 1947, ch. 504, § 10(1), 61 Stat. 788

Section, act Jan. 31, 1925, ch. 121, 43 Stat. 802, related to seismological investigations, and is now covered by section 883a of this title.

§§ 867, 868. Repealed. Oct. 31, 1951, ch. 654, § 1(39), (60), 65 Stat. 702, 703

Section 867, act June 5, 1920, ch. 235, § 1, 41 Stat. 930, related to transfer of instruments to institutions and is now covered by sections 483 and 484 of Title 40, Public Buildings, Property, and Works.

Section 868, act July 1, 1918, ch. 113, § 1, 40 Stat. 688, related to purchase of supplies or procurement of services in the field and is now covered by section 5 of Title 41, Public Contracts.

868a. Omitted

CODIFICATION

Section, act Jan. 19, 1942, ch. 6, § 10, 56 Stat. 8; 1965 Reorg. Plan No. 2, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318; Oct. 14, 1966, Pub. L. 89-657, § 2, 80 Stat. 907; 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, related to the purchase of commissary and quartermaster supplies by personnel from the National Oceanic and Atmospheric Administration, and has been omitted from the Code as superseded by Pub. L. 91-621, § 4, Dec. 31, 1970, 84 Stat. 1863, set out as section 857-4 of this title.

§ 869. Repealed. July 1, 1944, ch. 373, title XIII, § 1313 58 Stat. 714

Section, act Apr. 26, 1939, ch. 92, § 2, 53 Stat. 620, as affected by 1939 Reorg. Plan No. I, §§ 201, 205, eff. July 1, 1939, 4 F.R. 2728, 53 Stat. 1424, which provided for medical, dental, etc., treatment of Coast and Geodetic Survey's personnel and their families, is now covered by section 253 of Title 42, The Public Health and Welfare.

RENUMBERING OF REPEALING ACT

Section 611 of act July 1, 1944, which repealed this section, was renumbered 711 by act Aug. 13, 1946, ch. 958, § 5, 60 Stat. 1049, § 713 by act Feb. 28, 1948, ch. 83, § 9(b), 62 Stat. 47, § 813 by act July 30, 1956, ch. 779, § 3(b), 70 Stat. 720, § 913 by Pub. L. 88-581, § 4(b), Sept. 4, 1964, 78 Stat. 919, § 1013 by Pub. L. 89-239, § 3(b), Oct. 5, 1965, 79 Stat. 931, § 1113 by Pub. L. 91-572, § 6(b), Dec. 24, 1970, 84 Stat. 1506, § 1213 by Pub. L. 92-294, § 3(b), May 16, 1972, 86 Stat. 137; § 1313 by Pub. L. 93-154, § 2(b)(2), Nov. 16, 1973, 87 Stat. 604, and was repealed by Pub. L. 93-222, § 7(b), Dec. 29, 1973, 87 Stat. 936.

§ 870. Repealed. Aug. 1, 1956, ch. 837, title V, § 502(7), 70 Stat. 886.

Section, acts Jan. 19, 1942, ch. 6, § 9, 56 Stat. 8; Mar. 29, 1944, ch. 141, § 4, 58 Stat. 130; July 15, 1954, ch. 507, § 15, 68 Stat. 481, provided for the payment of death gratuity to survivors of commissioned officers of the Coast and Geodetic Survey.

EFFECTIVE DATE OF REPEAL

Repeal of section effective Jan. 1, 1957, see section 603(a) of act Aug. 1, 1956.

§ 871. Repealed. Dec. 28, 1945, ch. 597, § 4, 59 Stat. 662

Section, act Oct. 27, 1943, ch. 287, § 6, 57 Stat. 583, provided for reimbursement for property lost or destroyed in service while serving with the Navy.

§ 872. Omitted

CODIFICATION

Section, Pub. L. 86-451, title I, § 301, May 13, 1960, 74 Stat. 94, which prescribed the rate of extra compensation for recorders, instrument observers and other Federal employees while making oceanographic observations or tending seismographs, was from an appropriation act and is omitted in view of section 873 of this title which authorizes the Secretary of Commerce to establish the rates of compensation for such personnel.

§ 873. Extra compensation for instrument observers, recorders and other Federal employees for oceanographic, seismographic and magnetic observations

The Secretary of Commerce is authorized to pay extra compensation to members of crews of vessels when assigned duties as instrument observer or recorder, and to employees of other Federal agencies while observing tides or currents, or tending seismographs or magnetographs, at such rates as may be specified from time to time by him and without regard to section 5533 of title 5.

(July 22, 1947, ch. 286, § 2, 61 Stat. 400; Mar. 28, 1960, Pub. L. 86-397, § 1, 74 Stat. 11; Aug. 19, 1964, Pub. L. 88-448, title IV, § 401(*l*), 78 Stat. 491.)

CODIFICATION

"Section 5533 of title 5" was substituted for "section 301 of the Dual Compensation Act" on authority of section 7(b) of Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 631, section 1 of which enacted Title 5, Government Organization and Employees. Section 301 of the Dual Compensation Act had been classified to section 3105 of former Title 5, Executive Departments and Government Officers and Employees.

AMENDMENTS

1964—Pub. L. 88-448 inserted words "and without regard to section 5533 of title 5".

1960—Pub. L. 86-397 substituted "Secretary of Commerce" for "Coast and Geodetic Survey" and "instrument observer or recorder" for "bombers or fathometer readers," included employees tending magnetographs, and authorized the Secretary to establish the rates of compensation.

EFFECTIVE DATE OF 1964 AMENDMENT

Amendment by Pub. L. 88-448 effective on the first day of the first month which begins later than the ninetieth day following Aug. 19, 1964, see section 403 of Pub. L. 88-448.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 5 section 5533.

§ 874. Transportation of deceased officers' effects; reimbursement for supplies furnished distressed and shipwrecked persons

The Secretary of Commerce is authorized to provide, from appropriations now or hereafter made available to the National Oceanic and Atmospheric Administration, for—

(a) Transportation (including packing, unpacking, crating, and uncrating) of personal and household effects of commissioned officers who die on active duty to the official residence of record for such officers, or, upon application by their dependents, to such other locations as may be determined by the Secretary of Commerce or by such person as he may designate.

(b) Reimbursement, under regulations prescribed by the Secretary, of commissioned officers for food, clothing, medicines, and other supplies furnished by them for the temporary relief of distressed persons in remote localities and to shipwrecked persons temporarily provided for by them.

(July 22, 1947, ch. 286, § 1, 61 Stat. 400; 1965 Reorg. Plan No. 2, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318; 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090.)

TRANSFER OF FUNCTIONS

The office of Director of the Coast and Geodetic Survey was abolished, and the Coast and Geodetic Survey was consolidated with the Weather Bureau to form a new agency in the Department of Commerce to be known as the Environmental Science Services Administration, by Reorg. Plan No. 2 of 1965, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318, set out as a note under section 851 of this title. The Reorg. Plan also transferred to the Secretary of Commerce all functions of the Coast and Geodetic Survey and the Director. Subsequently, the Environmental Science Services Administration was abolished, and the National Oceanic and Atmospheric Administration was established by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, set out in the Appendix to Title 5, Government Organization and Employees. By Department Organization Order 25-5A, the Secretary delegated to NOAA his functions under this chapter of the Code. For further details, see Transfer of Functions note under section 851 of this title.

CROSS REFERENCES

Transportation of officers' effects on change of station, see section 404 et seq. of Title 37, Pay and Allowances of the Uniformed Services.

§ 875. Powers of officers as notaries

In places where the National Oceanic and Atmospheric Administration is serving which are not within the jurisdiction of any one of the States of the continental United States, excluding Alaska, commanding officers of National Oceanic and Atmospheric Administration vessels, and such other officers of the National Oceanic and Atmospheric Administration as the Secretary of Commerce may designate, may exercise the general powers of the notary public in the administration of oaths for the execution, acknowledgment, and attestation of instruments and papers, and the performance of all other notarial acts. The powers conferred shall be limited to acts performed in behalf of the personnel of the National Oceanic and Atmospheric Administration or in connection with the proper execution of the functions of that agency.

(Aug. 3, 1956, ch. 932, § 1, 70 Stat. 988; July 12, 1960, Pub. L. 86-624, § 24, 74 Stat. 418; 1965 Reorg. Plan No. 2, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318; 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090.)

AMENDMENTS

1960—Pub. L. 86-624 substituted "the States of the continental United States, excluding Alaska" for "the several States".

TRANSFER OF FUNCTIONS

The Coast and Geodetic Survey was consolidated with the Weather Bureau to form a new agency in the Department of Commerce to be known as the Environmental Science Services Administration, and the commissioned officers of the Survey were transferred to ESSA, by Reorg. Plan No. 2 of 1965, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318, set out as a note under section 851 of this title. The Reorg. Plan also transferred to the Secretary of Commerce all functions of the Coast and Geodetic Survey and the Director of the Survey. Subsequently, the Environmental Science Services Administration was abolished, the National Oceanic and Atmospheric Administration was established, and the Commissioned Officer Corps of ESSA was redesignated the Commissioned Officer Corps of NOAA by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, set out in the Appendix to Title 5, Government Organization and Employees. For further details, see Transfer of Functions note under section 851 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 876 of this title.

§ 876. Fees for notarial acts; prima facie evidence of authority

No fee of any kind shall be paid to any officer for the performance of any notarial act authorized by section 875 of this title. The signature without seal together with indication of grade of any officer performing any notarial act shall be prima facie evidence of his authority.

(Aug. 3, 1956, ch. 932, § 2, 70 Stat. 988.)

SUBCHAPTER II—SURVEYS

§§ 881 to 883. Repealed. Aug. 6, 1947, ch. 504, § 10(2) to (5), 61 Stat. 788

Section 881, R.S. § 4681, related to authority of the President to order surveys of coasts of the United States, and is now covered by section 883a of this title.

Section 882, R.S. § 4682, related to additional authority to order surveys beyond twenty-league limit, and is now covered by section 883a of this title.

Section 883, R.S. §§ 4683, 4684, related to mode of conducting surveys generally, and is now covered by sections 883a and 883b of this title.

§ 883a. Surveys and other activities

To provide charts and related information for the safe navigation of marine and air commerce, and to provide basic data for engineering and scientific purposes and for other commercial and industrial needs, the Secretary of Commerce, is authorized to conduct the following activities:

(1) Hydrographic and topographic surveys;

(2) Tide and current observations;

(3) Geodetic-control surveys;

(4) Field surveys for aeronautical charts;

(5) Geomagnetic, seismological, gravity, and related geophysical measurements and investigations, and observations for the determination of variation in latitude and longitude.

(Aug. 6, 1947, ch. 504, § 1, 61 Stat. 787; Apr. 5, 1960, Pub. L. 86-409, 74 Stat. 16; 1965 Reorg. Plan No. 2, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318.)

Amendments

1960—Pub. L. 86-409 eliminated provisions which restricted the Coast and Geodetic Survey in the conduct of its specified activities to the United States, its Territories and possessions, and which restricted hydrographic and topographic surveys to surveys of coastal water and land areas (including offlying islands, banks, shoals, and other offshore areas), and to surveys of lakes, rivers, reservoirs, and other inland waters not otherwise provided for by statute.

Transfer of Functions

The office of Director of the Coast and Geodetic Survey was abolished, and the Coast and Geodetic Survey was consolidated with the Weather Bureau to form a new agency in the Department of Commerce to be known as the Environmental Science Services Administration, by Reorg. Plan No. 2 of 1965, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318, set out as a note under section 851 of this title. The Reorg. Plan also transferred to the Secretary of Commerce all functions of the Coast and Geodetic Survey and the Director. For further details, see Transfer of Functions note under section 851 of this title.

§ 883b. Dissemination of data; further activities

In order that full public benefit may be derived from the operations of the National Ocean Survey by the dissemination of data resulting from the activities herein authorized and of related data from other sources, the Secretary of Commerce is authorized to conduct the following activities:

(1) Analysis and prediction of tide and current data;

(2) Processing and publication of data, information, compilations, and reports;

(3) Compilation and printing of aeronautical charts of the United States, its Territories, and possessions; and, in addition, the compilation and printing of such aeronautical charts covering international airways as are required primarily by United States Civil aviation;

(4) Compilation and printing of nautical charts of the United States, its Territories, and possessions;

(5) Distribution of aeronautical charts and related navigational publications required by United States civil aviation;

(6) Distribution of nautical charts and related navigational publications for the United States, its Territories, and possessions.

(Aug. 6, 1947, ch. 504, § 2, 61 Stat. 787; 1965 Reorg. Plan No. 2, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318; 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090.)

Transfer of Functions

The office of Director of the Coast and Geodetic Survey was abolished, and the Coast and Geodetic Survey was consolidated with the Weather Bureau to form a new agency in the Department of Commerce to be known as the Environmental Science Services Administration, by Reorg. Plan No. 2 of 1965, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318, set out as a note under section 851 of this title. The Reorg. Plan also transferred to the Secretary of Commerce all functions of the Coast and Geodetic Survey and the Director. Subsequently, the Environmental Science Services Administration was abolished, and the National Oceanic and Atmospheric Administration was established by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, set out in the Appendix to Title 5, Government Organization and Employees. By Department Organization Order 25-5A, the Secretary delegated to NOAA his functions under this chapter of the Code. By order of the Acting Associate Administrator of NOAA, the organizational name of the Coast and Geodetic Survey was changed to the National Ocean Survey. For further details, see Transfer of Functions note under section 851 of this title.

§ 883c. Geomagnetic data; collection, correlation, and dissemination

To provide for the orderly collection of geomagnetic data from domestic and foreign sources, and to assure that such data shall be readily available to Government and private agencies and individuals, the National Ocean Survey is designated as the central depository of the United States Government for geomagnetic data, and the Secretary of Commerce is authorized to collect, correlate, and disseminate such data.

(Aug. 6, 1947, ch. 504, § 3, 61 Stat. 787; 1965 Reorg. Plan No. 2, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318; 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090.)

Transfer of Functions

The office of Director of the Coast and Geodetic Survey was abolished, and the Coast and Geodetic Survey was consolidated with the Weather Bureau to form a new agency in the Department of Commerce to be known as the Environmental Science Services Administration, by Reorg. Plan No. 2 of 1965, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318, set out as a note under section 851 of this title. The Reorg. Plan also transferred to the Secretary of Commerce all functions of the Coast and Geodetic Survey and the Director. Subsequently, the Environmental Science Services Administration was abolished, and the National Oceanic and Atmospheric Administration was established by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, set out in the Appendix to Title 5, Government Organization and Employees. By Department Organization Order 25-5A, the Secretary delegated to NOAA his functions under this chapter of the Code. By order of the Acting Associate Administrator of NOAA, the organizational name of the Coast and Geodetic Survey was changed to the National Ocean Survey. For further details, see Transfer of Functions note under section 851 of this title.

§ 883d. Improvement of methods, instruments, and equipments; investigations and research

To improve the efficiency of the National Ocean Survey and to increase engineering and scientific knowledge, the Secretary of Com-

merce is authorized to conduct developmental work for the improvement of surveying and cartographic methods, instruments, and equipments; and to conduct investigations and research in geophysical sciences (including geodesy, oceanography, seismology, and geomagnetism).

(Aug. 6, 1947, ch. 504, § 4, 61 Stat. 788; 1965 Reorg. Plan No. 2, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318; 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090.)

TRANSFER OF FUNCTIONS

The office of Director of the Coast and Geodetic Survey was abolished, and the Coast and Geodetic Survey was consolidated with the Weather Bureau to form a new agency in the Department of Commerce to be known as the Environmental Science Services Administration, by Reorg. Plan No. 2 of 1965, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318, set out as a note under section 851 of this title. The Reorg. Plan also transferred to the Secretary of Commerce all functions of the Coast and Geodetic Survey and the Director. Subsequently, the Environmental Science Services Administration was abolished, and the National Oceanic and Atmospheric Administration was established by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, set out in the Appendix to Title 5, Government Organization and Employees. By Department Organization Order 25-5A, the Secretary delegated to NOAA his functions under this chapter of the Code. By order of the Acting Associate Administrator of NOAA, the organizational name of the Coast and Geodetic Survey was changed to the National Ocean Survey. For further details, see Transfer of Functions note under section 851 of this title.

§ 883e. Cooperative agreements for surveys and investigations

The Secretary of Commerce is authorized to enter into cooperative agreements with, and to receive and expend funds made available by, any State or subdivision thereof, or any public or private organization, or individual, for surveys or investigations authorized herein, or for performing related surveying and mapping activities, including special-purpose maps, and for the preparation and publication of the results thereof.

(Aug. 6, 1947, ch. 504, § 5, 61 Stat. 788; 1965 Reorg. Plan No. 2, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318.)

TRANSFER OF FUNCTIONS

The office of Director of the Coast and Geodetic Survey was abolished, and the Coast and Geodetic Survey was consolidated with the Weather Bureau to form a new agency in the Department of Commerce to be known as the Environmental Science Services Administration, by Reorg. Plan No. 2 of 1965, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318, set out as a note under section 851 of this title. The Reorg. Plan also transferred to the Secretary of Commerce all functions of the Coast and Geodetic Survey and the Director. For further details, see Transfer of Functions note under section 851 of this title.

§ 883f. Contracts with qualified organizations

The Secretary of Commerce is authorized to contract with qualified organizations for the performance of any part of the authorized functions of the National Ocean Survey when he deems such procedure to be in the public interests.

(Aug. 6, 1947, ch. 504, § 6, 61 Stat. 788; 1965 Reorg. Plan No. 2, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318; 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090.)

TRANSFER OF FUNCTIONS

The office of Director of the Coast and Geodetic Survey was abolished, and the Coast and Geodetic Survey was consolidated with the Weather Bureau to form a new agency in the Department of Commerce to be known as the Environmental Science Services Administration, by Reorg. Plan No. 2, of 1965, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318, set out as a note under section 851 of this title. The Reorg. Plan also transferred to the Secretary of Commerce all functions of the Coast and Geodetic Survey and the Director. Subsequently, the Environmental Science Services Administration was abolished, and the National Oceanic and Atmospheric Administration was established by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, set out in the Appendix to Title 5, Government Organization and Employees. By Department Organization Order 25-5A, the Secretary delegated to NOAA his functions under this chapter of the Code. By order of the Acting Associate Administrator of NOAA, the organizational name of the Coast and Geodetic Survey was changed to the National Ocean Survey. For further details, see Transfer of Functions note under section 851 of this title.

§ 883g. Repealed. Pub. L. 88-611, § 4(a)(2), Oct. 2, 1964, 78 Stat. 991

Section, act Aug. 6, 1947, ch. 504, § 7, 61 Stat. 788, provided for acceptance of gifts or bequests and exemption from Federal taxes, and is now covered by sections 1522 and 1523 of Title 15, Commerce and Trade.

§ 883h. Employment of public vessels

The President is authorized to cause to be employed such of the public vessels as he deems it expedient to employ, and to give such instructions for regulating their conduct as he deems proper in order to carry out the provisions of this subchapter.

(Aug. 6, 1947, ch. 504, § 8, 61 Stat. 788.)

DELEGATION OF FUNCTIONS

Functions of the President under this section delegated to the Secretary of Commerce, see section 1(*l*) of Ex. Ord. No. 11023, May 28, 1962, 27 F.R. 5131, set out as a note under section 301 of Title 3, The President.

CROSS REFERENCES

Authority to place vessels of Bureau of Fisheries on the same footing as those of the National Ocean Survey, see section 746 of Title 16, Conservation.

§ 883i. Authorization of appropriations

There are authorized to be appropriated such funds as may be necessary to acquire, construct, maintain, and operate ships, stations, equipment, and facilities and for such other expenditures, including personal services at the seat of government and elsewhere and including the erection of temporary observatory buildings and lease of sites therefor, as may be necessary for the conduct of the activities herein authorized.

(Aug. 6, 1947, ch. 504, § 9, 61 Stat. 788.)

REFERENCES IN TEXT

"Herein", referred to in text, means act Aug. 6, 1947, ch. 504, 61 Stat. 787, which is classified generally to

this subchapter (§ 883a et seq.). For complete classification of this Act to the Code, see Tables volume.

§ 884. Power to use books, maps, etc., and to employ persons

The President is authorized, in executing the provisions of this title relating to the coast survey, to use all maps, charts, books, instruments, and apparatus belonging to the United States, and to direct where the same shall be deposited, and to employ all persons in the land or naval service of the United States, and such astronomers and other persons as he shall deem proper.

(R.S. § 4685.)

REFERENCES IN TEXT

This title, referred to in text, means Title 56 of the Revised Statutes of 1878, comprising sections 4681 to 4691 of the Revised Statutes, which enacted sections 881 to 883 and 884 to 888 of this title.

CODIFICATION

Section was not enacted as part of act Aug. 6, 1947, ch. 504, 61 Stat. 787, which comprises this subchapter.

R.S. § 4685 is from act July 10, 1832, ch. 191, § 2, 4 Stat. 571.

§ 885. Repealed. Aug. 6, 1947, ch. 504, § 10(6), 61 Stat. 788

Section, R.S. § 4686, related to the use of public vessels on coast surveys, and is now covered by section 883h of this title.

§§ 886, 887. Repealed. June 21, 1955, ch. 172, § 5(1), (2), 69 Stat. 170

Section 886, R.S. § 4687, related to employment of officers of Army and Navy in the work of surveying the coast of the United States.

Section 887, R.S. § 4688; acts Aug. 30, 1890, ch. 837, § 1, 26 Stat. 382; June 5, 1920, ch. 235, § 1, 41 Stat. 929, provided for allowance for subsistence to officers of Army and Navy while employed on coast survey service.

ADDITIONAL REPEAL

Sections were also repealed by act Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641. Section 49(a) of act Aug. 10, 1956, provided in part that laws effective after Mar. 31, 1955, inconsistent with that act, should be considered as superseding it to the extent of the inconsistency.

§ 888. Omitted

CODIFICATION

Section, R.S. §§ 264, 4690; acts Feb. 14, 1903, ch. 552, §§ 4, 10, 32 Stat. 826, 829; Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736; June 5, 1920, ch. 235, § 1, 41 Stat. 929, relating to an annual statement on coast surveys by the Coast and Geodetic Survey [now the National Ocean Survey], was partially repealed by acts May 29, 1928, ch. 901, § 1(104), 45 Stat. 994; Aug. 7, 1946, ch. 770, § 1(5), 60 Stat. 866; and Aug. 30, 1954, ch. 1076, § 1(13), 68 Stat. 967. The provision relating to an annual statement of all expenditures by Coast and Geodetic Survey [now the National Ocean Survey] was omitted as covered by section 1519 of Title 15, Commerce and Trade.

§§ 889, 890. Repealed. June 21, 1955, ch. 172, § 5(5), 69 Stat. 170

Section 889, acts Mar. 4, 1909, ch. 313, § 1, 35 Stat. 1064; Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736, authorized cooperation with North Carolina State Fish Commission in survey of waters of State.

Section 890, acts Mar. 4, 1909, ch. 313, § 2, 35 Stat. 1065; Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736, provided for marking triangulation points of North Carolina survey.

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CHAPTER REFERRED TO IN D.C. CODE

This chapter is referred to in section 36-501 of the District of Columbia Code.

§ 901. Short title

This chapter may be cited as "Longshoremen's and Harbor Workers' Compensation Act."

(Mar. 4, 1927, ch. 509, § 1, 44 Stat. 1424.)

EFFECTIVE DATE

Section 52, formerly § 51, of act Mar. 4, 1927, renumbered Oct. 27, 1972, Pub. L. 92-576, § 19, 86 Stat. 1263, provided that: "Sections 39 to 48, 50 to 52 [50 to 52, formerly 49 to 51, renumbered Pub. L. 92-576, § 19], inclusive (sections 939 to 948, 949, and 950 of this title), shall become effective upon the passage of this Act [Mar. 4, 1927], and the remainder of this Act shall become effective on July 1, 1927."

SHORT TITLE OF 1972 AMENDMENT

Pub. L. 92-576, § 1, Oct. 27, 1972, 86 Stat. 1251 provided: "That this Act [which enacted section 948a, amended sections 902, 903, 905 to 910, 912 to 914, 917, 919, 921, 921a, 923, 927, 928, 933, 935, 939, 940, and 944 of this title, and enacted and amended provisions set out as notes under this section and section 902 of this title] may be cited as the 'Longshoremen's and Harbor Workers' Compensation Act Amendments of 1972'."

FEDERAL RULES OF CIVIL PROCEDURE

Application of chapter, see rule 81, Title 28, Appendix, Judiciary and Judicial Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 30 section 932.

§ 902. Definitions

When used in this chapter—

(1) The term "person" means individual, partnership, corporation, or association.

(2) The term "injury" means accidental injury or death arising out of and in the course of employment, and such occupational disease or infection as arises naturally out of such employment or as naturally or unavoidably results from such accidental injury, and includes an injury caused by the willful act of a third person directed against an employee because of his employment.

(3) The term "employee" means any person engaged in maritime employment, including any longshoreman or other person engaged in longshoring operations, and any harborworker including a ship repairman, shipbuilder, and shipbreaker, but such term does not include a master or member of a crew of any vessel, or any person engaged by the master to load or unload or repair any small vessel under eighteen tons net.

(4) The term "employer" means an employer any of whose employees are employed in maritime employment, in whole or in part, upon the navigable waters of the United States (including any adjoining pier, wharf, dry dock, terminal, building way, marine railway, or other adjoining area customarily used by an employer in loading, unloading, repairing, or building a vessel).

(5) The term "carrier" means any person or fund authorized under section 932 of this title to insure under this chapter and includes self-insurers.

(6) The term "Secretary" means the Secretary of Labor.

(7) The term "deputy commissioner" means the deputy commissioner having jurisdiction in respect of an injury or death.

(8) The term "State" includes a Territory and the District of Columbia.

(9) The term "United States" when used in a geographical sense means the several States and Territories and the District of Columbia, including the territorial waters thereof.

(10) "Disability" means incapacity because of injury to earn the wages which the employee was receiving at the time of injury in the same or any other employment.

(11) "Death" as a basis for a right to compensation means only death resulting from an injury.

(12) "Compensation" means the money allowance payable to an employee or to his dependents as provided for in this chapter, and includes funeral benefits provided therein.

(13) "Wages" means the money rate at which the service rendered is recompensed under the contract of hiring in force at the time of the injury, including the reasonable value of board, rent, housing, lodging, or similar advantage received from the employer, and gratuities received in the course of employment from others than the employer.

(14) "Child" shall include a posthumous child, a child legally adopted prior to the injury of the employee, a child in relation to whom the deceased employee stood in loco parentis for at least one year prior to the time of injury, and a stepchild or acknowledged illegitimate child dependent upon the deceased, but does not include married children unless wholly dependent on him. "Grandchild" means a child as above defined of a child as above defined. "Brother" and "sister" includes stepbrothers and stepsisters, half brothers and half sisters, and brothers and sisters by adoption, but does not include married brothers nor married sisters unless wholly dependent on the employee. "Child",

"grandchild", "brother", and "sister" include only a person who is under eighteen years of age, or who, though eighteen years of age or over, is (1) wholly dependent upon the employee and incapable of self-support by reason of mental or physical disability, or (2) a student as defined in paragraph (19) of this section.

(15) The term "parent" includes step-parents and parents by adoption, parents-in-law, and any person who for more than three years prior to the death of the deceased employee stood in the place of a parent to him, if dependent on the injured employee.

(16) The terms "widow or widower" includes only the decedent's wife or husband living with or dependent for support upon him or her at the time of his or her death; or living apart for justifiable cause or by reason of his or her desertion at such time.

(17) The terms "adoption" or "adopted" mean legal adoption prior to the time of the injury.

(18) The term "student" means a person regularly pursuing a full-time course of study or training at an institution which is—

(A) a school or college or university operated or directly supported by the United States, or by any State or local government or political subdivision thereof,

(B) a school or college or university which has been accredited by a State or by a State recognized or nationally recognized accrediting agency or body.

(C) a school or college or university not so accredited but whose credits are accepted, on transfer, by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited, or

(D) an additional type of educational or training institution as defined by the Secretary,

but not after he reaches the age of twenty-three or has completed four years of education beyond the high school level, except that, where his twenty-third birthday occurs during a semester or other enrollment period, he shall continue to be considered a student until the end of such semester or other enrollment period. A child shall not be deemed to have ceased to be a student during any interim between school years if the interim does not exceed five months and if he shows to the satisfaction of the Secretary that he has a bona fide intention of continuing to pursue a full-time course of education or training during the semester or other enrollment period immediately following the interim or during periods of reasonable duration during which, in the judgment of the Secretary, he is prevented by factors beyond his control from pursuing his education. A child shall not be deemed to be a student under this chapter during a period of service in the Armed Forces of the United States.

(19) The term "national average weekly wage" means the national average weekly earnings of production or nonsupervisory workers on private nonagricultural payrolls.

(20) The term "Board" shall mean the Benefits Review Board.

(21) The term "vessel" means any vessel upon which or in connection with which any person entitled to benefits under this chapter suffers injury or death arising out of or in the course of his employment, and said vessel's owner, owner pro hac vice, agent, operator, charter or bare boat charterer, master, officer, or crew member.

(22) The singular includes the plural and the masculine includes the feminine and neuter.

(Mar. 4, 1927, ch. 509, § 2, 44 Stat. 1424; June 25, 1938, ch. 685, § 1, 52 Stat. 1164; Oct. 27, 1972, Pub. L. 92-576, §§ 2(a), (b), 3, 5(b), 15(c), 18(b), 20(c)(1), 86 Stat. 1251, 1253, 1262, 1263, 1265.)

REFERENCES IN TEXT

The phrase "a student as defined in paragraph (19) of this section", referred to in par. (14), probably means a student as defined in paragraph (18) of this section.

AMENDMENTS

1972—Par. (3). Pub. L. 92-576, § 2(a), defined "employee" to mean any person engaged in maritime employment, including any longshoreman or other person engaged in longshoring operations, and any harborworker including a ship repairman, shipbuilder, and shipbreaker and substituted "or" for "nor" preceding "any person engaged by the master".

Par. (4). Pub. L. 92-576, § 2(b), defined "employer" to include an employer any of whose employees are employed in maritime employment upon the navigable waters of the United States, including any adjoining pier, wharf, dry dock, terminal, building way, marine railway, or other adjoining area customarily used by an employer in loading, unloading, repairing, or building a vessel.

Par. (14). Pub. L. 92-576, § 3(b), defined "child, grandchild, brother, and sister" to include a student as defined in par. (19) of this section.

Par. (16). Pub. L. 92-576, § 20(c)(1), consolidated provisions of former par. (16) definition of "widow" and former par. (17) definition of "widower" in one definition of "widow or widower"; and in redefining "widower", substituted provision for decedent's husband living with or dependent upon wife for support at time of her death, for prior provision for decedent's husband living with and dependent upon wife for support at time of her death, and included decedent's husband living apart from wife for justifiable cause or by reason of her desertion at time of her death.

Par. (17). Pub. L. 92-576, § 20(c)(1), redesignated former par. (18) definition of "adoption" or "adopted" as par. (17). Former par. (17) definition of "widower" incorporated in par. (16).

Par. (18). Pub. L. 92-576, §§ 3(a), 20(c)(1), added par. (19) definition of "student" and redesignated such par. (19) as par. (18). Former par. (18) definition of "adoption" or "adopted" redesignated par. (17).

Par. (19). Pub. L. 92-576, §§ 5(b), 20(c)(1), added par. (20) definition of "national average weekly wage" and redesignated such par. (20) as par. (19). Former par. (19) definition of "student" redesignated par. (18).

Par. (20). Pub. L. 92-576, §§ 15(c), 20(c)(1), added par. (21) definition of "Board" and redesignated such par. (21) as par. (20). Former par. (20) definition of "national average weekly wage" redesignated par. (19).

Par. (21). Pub. L. 92-576, §§ 18(b), 20(c)(1), added par. (22) definition of "vessel" and redesignated such par. (22) as par. (21). Former par. (21) definition of "Board" redesignated par. (20).

Par. (22). Pub. L. 92-576, §§ 3(a), 5(b), 15(c), 18(b), 20(c)(1), redesignated former par. (19) definition of "singular" as pars. (20), (21), (22), (23), and (22) again. Former par. (22) definition of "vessel" redesignated par. (21).

1938—Par. (14). Act June 25, 1938, included within the definition of child, "a child in relation to whom

the deceased employee stood in loco parentis for at least one year prior to the time of injury"; and the definition of child, grandchild, brother, and sister "persons who though eighteen years of age or over, are wholly dependent upon the deceased employee and incapable of self-support by reason of mental or physical disability".

EFFECTIVE DATE OF 1972 AMENDMENT

Section 20(c)(3) of Pub. L. 92-576 provided that: "The amendments made by this subsection [which enacted par. (16), struck out par. (17), and redesignated as pars. (17) to (22) paragraphs previously designated as (18) to (23) of this section and substituted "widow or widower" for "surviving wife or dependent husband" wherever appearing in section 909 of this title] shall apply only with respect to deaths or injuries occurring after the enactment of this Act, [Oct. 27, 1972]."

Section 22 of Pub. L. 92-576 provided that: "The amendments made by this Act [see Short Title note set out under section 901 of this title.] shall become effective thirty days after the date of enactment of this Act [Oct. 27, 1972]."

REPEALS

Reorg. Plan No. 19 of 1950, § 1, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1271, which was formerly set out in the credit to this section and which transferred the functions of the Federal Security Administrator to the Secretary of Labor, was repealed by Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 662.

Reorg. Plan No. 2 of 1946, § 3, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095, which was formerly set out in the credit to this section and which transferred the functions of the United States Employees' Compensation Commission to the Federal Security Administrator, was repealed by Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 662.

CROSS REFERENCES

Employees of nonappropriation fund instrumentalities of armed services, see section 8171 et seq. of Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 5 sections 8171, 8172, 8173; title 30 section 932.

§ 903. Coverage

(a) Compensation shall be payable under this chapter in respect of disability or death of an employee but only if the disability or death results from an injury occurring upon the navigable waters of the United States (including any adjoining pier, wharf, dry dock, terminal, building way, marine railway, or other adjoining area customarily used by an employer in loading, unloading, repairing, or building a vessel). No compensation shall be payable in respect of the disability or death of—

(1) A master or member of a crew of any vessel or any person engaged by the master to load or unload or repair any small vessel under eighteen tons net; or

(2) An officer or employee of the United States or any agency thereof or of any State or foreign government, or of any political subdivision thereof.

(b) No compensation shall be payable if the injury was occasioned solely by the intoxication of the employee or by the willful intention of the employee to injure or kill himself or another.

(Mar. 4, 1927, ch. 509, § 3, 44 Stat. 1426; Oct. 27, 1972, Pub. L. 92-576, §§ 2(c), 21, 86 Stat. 1251, 1265.)

AMENDMENTS

1972—Subd. (a). Pub. L. 92-576, § 2(c), substituted provisions respecting coverage of injuries occurring upon navigable waters of the United States, including any adjoining pier, wharf, dry dock, terminal, building way, marine railway, or other adjoining area customarily used by an employer in loading, unloading, repairing, or building a vessel, for prior provisions respecting coverage of such injuries upon navigable waters and if recovery for the disability or death through workmen's compensation proceedings may not validly be provided by State law.

Subd. (a)(1). Pub. L. 92-576, § 21, substituted "or" for "nor" preceding "any person engaged by the master".

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-576 effective 30 days after Oct. 27, 1972, see section 22 of Pub. L. 92-576, set out as an Effective Date of 1972 Amendment note under section 902 of this title.

DISTRICT OF COLUMBIA

The Longshoremen's and Harbor Workers' Compensation Act [this chapter] was made applicable in respect to the injury or death of an employee of an employer carrying on any employment in the District of Columbia, by act May 17, 1928, ch. 612, 45 Stat. 600, as amended (D.C. Code, § 36-501 et seq.).

CROSS REFERENCES

Compensation for disability or death to persons employed at Military, Air and Naval Bases outside the United States, application of chapter, see sections 1651 to 1654 of Title 42, The Public Health and Welfare.

Compensation for injuries to United States employees, see section 8101 et seq. of Title 5, Government Organization and Employees.

Compensation for injury, death, or detention of employees of contractors with United States outside of the United States, application of chapter, see sections 1701 et seq. of Title 42, The Public Health and Welfare.

Employees of nonappropriation fund instrumentalities of armed services, see section 8171 et seq. of Title 5, Government Organization and Employees.

Presumptions, see section 920 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 5 section 8171; title 30 section 932.

§ 904. Liability for compensation

(a) Every employer shall be liable for and shall secure the payment to his employees of the compensation payable under sections 907, 908, and 909 of this title. In the case of an employer who is a subcontractor, the contractor shall be liable for and shall secure the payment of such compensation to employees of the subcontractor unless the subcontractor has secured such payment.

(b) Compensation shall be payable irrespective of fault as a cause for the injury.

(Mar. 4, 1927, ch. 509, § 4, 44 Stat. 1426.)

CROSS REFERENCES

Security for compensation, see section 932 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 905 of this title; title 30 section 932.

§ 905. Exclusiveness of liability

(a) The liability of an employer prescribed in section 904 of this title shall be exclusive and in place of all other liability of such employer to the employee, his legal representative, husband or wife, parents, dependents, next of kin, and anyone otherwise entitled to recover damages from such employer at law or in admiralty on account of such injury or death, except that if an employer fails to secure payment of compensation as required by this chapter, an injured employee, or his legal representative in case death results from the injury, may elect to claim compensation under the chapter, or to maintain an action at law or in admiralty for damages on account of such injury or death. In such action the defendant may not plead as a defense that the injury was caused by the negligence of a fellow servant, or that the employee assumed the risk of his employment, or that the injury was due to the contributory negligence of the employee.

(b) In the event of injury to a person covered under this chapter caused by the negligence of a vessel, then such person, or anyone otherwise entitled to recover damages by reason thereof, may bring an action against such vessel as a third party in accordance with the provisions of section 933 of this title, and the employer shall not be liable to the vessel for such damages directly or indirectly and any agreements or warranties to the contrary shall be void. If such person was employed by the vessel to provide stevedoring services, no such action shall be permitted if the injury was caused by the negligence of persons engaged in providing stevedoring services to the vessel. If such person was employed by the vessel to provide ship building or repair services, no such action shall be permitted if the injury was caused by the negligence of persons engaged in providing ship building or repair services to the vessel. The liability of the vessel under this subsection shall not be based upon the warranty of seaworthiness or a breach thereof at the time the injury occurred. The remedy provided in this subsection shall be exclusive of all other remedies against the vessel except remedies available under this chapter.

(Mar. 4, 1927, ch. 509, § 5, 44 Stat. 1426; Oct. 27, 1972, Pub. L. 92-576, § 18(a), 86 Stat. 1263.)

AMENDMENTS

1972—Pub. L. 92-576 designated existing provisions as subd. (a) and, as so designated, substituted "the chapter" for "this chapter" and added subsec. (b).

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-576 effective 30 days after Oct. 27, 1972, see section 22 of Pub. L. 92-576, set out as an Effective Date of 1972 Amendment note under section 902 of this title.

CROSS REFERENCES

Compensation for injuries where third persons are liable, see section 933 of this title.

§ 906. Compensation

(a) Time for commencement

No compensation shall be allowed for the first three days of the disability, except the benefits provided for in section 907 of this title: *Provided, however,* That in case the injury results in disability of more than fourteen days the compensation shall be allowed from the date of the disability.

(b) Maximum rate of compensation

(1) Except as provided in subsection (c) of this section, compensation for disability shall not exceed the following percentages of the applicable national average weekly wage as determined by the Secretary under paragraph (3):

(A) 125 per centum or $167, whichever is greater, during the period ending September 30, 1973.

(B) 150 per centum during the period beginning October 1, 1973, and ending September 30, 1974.

(C) 175 per centum during the period beginning October 1, 1974, and ending September 30, 1975.

(D) 200 per centum beginning October 1, 1975.

(2) Compensation for total disability shall not be less than 50 per centum of the applicable national average weekly wage determined by the Secretary under paragraph (3), except that if the employee's average weekly wages as computed under section 910 of this title are less than 50 per centum of such national average weekly wage, he shall receive his average weekly wages as compensation for total disability.

(3) As soon as practicable after June 30 of each year, and in any event prior to October 1 of such year, the Secretary shall determine the national average weekly wage for the three consecutive calendar quarters ending June 30. Such determination shall be the applicable national average weekly wage for the period beginning with October 1 of that year and ending with September 30 of the next year. The initial determination under this paragraph shall be made as soon as practicable after October 27, 1972.

(c) Maximum rate exception

The maximum rate of compensation for a nonappropriated fund instrumentality employee shall be equal to 66⅔ per centum of the maximum rate of basic pay established for a Federal employee in grade GS-12 by section 5332 of title 5, and the minimum rate of compensation for such an employee shall be equal to 66⅔ per centum of the minimum rate of basic pay established for a Federal employee in grade GS-2 by such section.

(d) Applicability of determinations

Determinations under this subsection with respect to a period shall apply to employees or survivors currently receiving compensation for permanent total disability or death benefits during such period, as well as those newly awarded compensation during such period.

(Mar. 4, 1927, ch. 509, § 6, 44 Stat. 1426; June 24, 1948, ch. 623, § 1, 62 Stat. 602; July 26, 1956, ch. 735, § 1, 70 Stat. 654; July 14, 1961, Pub. L. 87-87, § 1, 75 Stat. 203; Oct. 27, 1972, Pub. L. 92-576, §§ 4, 5(a), 86 Stat. 1252.)

AMENDMENTS

1972—Subsec. (a). Pub. L. 92-576, § 4, substituted "fourteen days" for "twenty-eight days".

Subsecs. (b) to (d). Pub. L. 92-576, § 5(a) added subsecs. (b) to (d) and struck out former subsec. (b) compensation for disability provisions which prescribed a $70 per week limit, a $18 per week minimum for total disability, and provided that if the employee's average weekly wages, as computed under section 910 of this title, were less than $18 per week he should receive as compensation for total disability his average weekly wages.

1961—Subsec. (b). Pub. L. 87-87 increased the limitation on compensation for disability from "$54" to "$70" per week.

1956—Subsec. (a). Act July 26, 1956, substituted "three days" for "seven days" and "twenty-eight days" for "forty-nine days".

Subsec. (b). Act July 26, 1956, substituted "$54" for "$35", and "$18" for "$12" in two places.

1948—Subsec. (b). Act June 24, 1948 increased the maximum weekly compensation from $25 to $35 and the minimum from $9 to $12 in two places.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-576 effective 30 days after Oct. 27, 1972, see section 22 of Pub. L. 92-576, set out as an Effective Date of 1972 Amendment note under section 902 of this title.

EFFECTIVE DATE OF 1961 AMENDMENT

Section 4 of Pub. L. 87-87 provided that: "The amendments made by the foregoing provisions of this Act [amending subsec. (b) of this section and sections 909(e) and 914(m) of this title] shall become effective as to injuries or death sustained on or after the date of enactment [July 14, 1961]."

EFFECTIVE DATE OF 1956 AMENDMENT

Section 9 of act July 26, 1956, provided that: "The amendments made by the first section and sections 2, 4, and 5 of this Act [to sections 906(a) and (b), 908(c)(1) to (12), 909(e), and 914(m) of this title respectively] shall be applicable only with respect to injuries and death occurring on or after the date of enactment of this Act [July 26, 1956] notwithstanding the provisions of the Act of December 2, 1942, as amended (42 U.S.C. sec. 1701 et seq.)."

EFFECTIVE DATE OF 1948 AMENDMENT

Section 6 of act June 24, 1948, provided that: "The provisions of this Act [amending sections 906(a), 908(c), 909(a) to (c), (e), 910(a) to (c), and 914(m) of this title] shall be applicable only to injuries or deaths occurring on or after the effective date hereof [June 24, 1948]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 909 and 910 of this title; title 42 sections 1652, 1702.

§ 907. Medical services and supplies

(a) General requirement

The employer shall furnish such medical, surgical, and other attendance or treatment, nurse and hospital service, medicine, crutches, and apparatus, for such period as the nature of the injury or the process of recovery may require.

(b) Physician selection; administrative supervision; change of physicians and hospitals

The employee shall have the right to choose an attending physician authorized by the Secretary to provide medical care under this chapter as hereinafter provided. If, due to the nature of the injury, the employee is unable to select his physician and the nature of the injury requires immediate medical treatment and care, the employer shall select a physician for him. The Secretary shall actively supervise the medical care rendered to injured employees, shall require periodic reports as to the medical care being rendered to injured employees, shall have authority to determine the necessity, character, and sufficiency of any medical aid furnished or to be furnished, and may, on his own initiative or at the request of the employer, order a change of physicians or hospitals when in his judgment such change is desirable or necessary in the interest of the employee. Change of physicians at the request of employees shall be permitted in accordance with regulations of the Secretary.

(c) Authorized physicians; designation in community; posting of names

The Secretary may designate the physicians who are authorized to render medical care under the chapter. The names of physicians so designated in the community shall be made available to employees through posting or in such other form as the Secretary may prescribe.

(d) Request of treatment or services prerequisite to recovery of expenses; formal report of injury and treatment; suspension of compensation for refusal of treatment or examination; justification

An employee shall not be entitled to recover any amount expended by him for medical or other treatment or services unless he shall have requested the employer to furnish such treatment or services, or to authorize provision of medical or surgical services by the physician selected by the employee, and the employer shall have refused or neglected to do so, or unless the nature of the injury required such treatment and services and the employer or his superintendent or foreman having knowledge of such injury shall have neglected to provide or authorize the same; nor shall any claim for medical or surgical treatment be valid and enforceable, as against such employer, unless within ten days following the first treatment the physician giving such treatment furnish to the employer and the Secretary a report of such injury and treatment, on a form prescribed by the Secretary. The Secretary may, however, excuse the failure to furnish such report within ten days when he finds it to be in the interest of justice to do so, and he may, upon application by a party in interest, make an award for the reasonable value of such medical or surgical treatment so obtained by the employee. If at any time the employee unreasonably refuses to submit to medical or surgical treatment, or to an examination by a physician selected by the employer, the Secretary may, by order, suspend the payment of further compensation during such time as such refusal continues, and no compensation shall be paid at any time during the period of such suspension, unless the circumstances justified the refusal.

(e) Physical examination; medical questions; report of physical impairment; review or reexamination; costs

In the event that medical questions are raised in any case, the Secretary shall have the power to cause the employee to be examined by a physician employed or selected by the Secretary and to obtain from such physician a report containing his estimate of the employee's physical impairment and such other information as may be appropriate. Any party who is dissatisfied

with such report may request a review or reexamination of the employee by one or more different physicians employed or selected by the Secretary. The Secretary shall order such review or reexamination unless he finds that it is clearly unwarranted. Such review or reexamination shall be completed within two weeks from the date ordered unless the Secretary finds that because of extraordinary circumstances a longer period is required. The Secretary shall have the power in his discretion to charge the cost of examination or review under this subsection to the employer, if he is a self-insurer, or to the insurance company which is carrying the risk, in appropriate cases, or to the special fund in section 944 of this title.

(f) Place of examination; exclusion of physicians other than examining physician of Secretary; good cause for conclusions of other physicians respecting impairment; examination by employer's physician; suspension of proceedings and compensation for refusal of examination

An employee shall submit to a physical examination under subsection (e) of this section at such place as the Secretary may require. The place, or places, shall be designated by the Secretary and shall be reasonably convenient for the employee. No physician selected by the employer, carrier, or employee shall be present at or participate in any manner in such examination, nor shall conclusions of such physicians as to the nature or extent of impairment or the cause of impairment be available to the examining physician unless otherwise ordered, for good cause, by the Secretary. Such employer or carrier shall, upon request, be entitled to have the employee examined immediately thereafter and upon the same premises by a qualified physician or physicians in the presence of such physician as the employee may select, if any. Proceedings shall be suspended and no compensation shall be payable for any period during which the employee may refuse to submit to examination.

(g) Fees and charges for examinations, treatment, or service; limitation; regulations

All fees and other charges for medical examinations, treatment, or service shall be limited to such charges as prevail in the community for such treatment, and shall be subject to regulation by the Secretary. The Secretary shall issue regulations limiting the nature and extent of medical expenses chargeable against the employer without authorization by the employer or the Secretary.

(h) Third party liability

The liability of an employer for medical treatment as herein provided shall not be affected by the fact that his employee was injured through the fault or negligence of a third party not in the same employ, or that suit has been brought against such third party. The employer shall, however, have a cause of action against such third party to recover any amounts paid by him for such medical treatment in like manner as provided in section 933(b) of this title.

(i) Physicians' ineligibility for subsection (e) physical examinations and reviews because of workmen's compensation claim employment or fee acceptance or participation

Unless the parties to the claim agree, the Secretary shall not employ or select any physician for the purpose of making examinations or reviews under subsection (e) of this section who, during such employment, or during the period of two years prior to such employment, has been employed by, or accepted or participated in any fee relating to a workmen's compensation claim from any insurance carrier or any self-insurer.

(Mar. 4, 1927, ch. 509, § 7, 44 Stat. 1427; May 26, 1934, ch. 354, § 1, 48 Stat. 806; June 25, 1938, ch. 685, §§ 2, 3, 52 Stat. 1165; Sept. 13, 1960, Pub. L. 86-757, 74 Stat. 900; Oct. 27, 1972, Pub. L. 92-576, § 6, 86 Stat. 1254.)

AMENDMENTS

1972—Subd. (a). Pub. L. 92-576 reenacted provisions without change.

Subd. (b). Pub. L. 92-576, in revising the text, substituted provisions for employee's choosing of an attending physician authorized by the Secretary, for prior provisions for such a choosing from a panel of physicians named by the employer and employer's selection of a physician for an employee when nature of injury requires immediate medical treatment and care for prior provisions for employer's selection of a physician from the panel; required Secretary's supervision of medical care rendered and periodic reports of medical care furnished; provided for initiative of the Secretary or the request of the employer for making change of hospitals or physicians and that the change be in the interest of the employee; provided for change of physicians pursuant to regulations of the Secretary; and deleted prior provision authorizing a second choice of a physician from the panel and for selection of physicians for specialized services.

Subd. (c). Pub. L. 92-576 substituted provisions respecting Secretary's designation of physicians in community authorized to render medical care and posting of their names for prior provisions respecting deputy commissioner's determination of size of panel of physicians (named by employer) following statutory criteria and approval of their qualifications, and requirement of posting of names and addresses of physicians so as to afford reasonable notice.

Subd. (d). Pub. L. 92-576 substituted the Secretary for the deputy commissioner as the person to exercise the various authorities, eliminated introductory provisions respecting employer's failure to maintain a panel of physicians for examination purposes or to permit the employee to choose an attending physician from the panel and employee's procurement of treatment and services and selection of a physician at expense of employer, decreased from twenty to ten days the period within which to make the formal report of injury and treatment, and authorized suspension of compensation for refusal to submit to an examination by a physician of the employer.

Subd. (e). Pub. L. 92-576 substituted provisions respecting physical examination to determine medical questions by a physician employed or selected by the Secretary, such physician's report of the physical impairment, review or reexamination of the employee, and the charging of costs to an employer, who is a self-insurer, or the insurance company carrying the risk or the special fund for prior provisions respecting examination of employee by a physician selected by the deputy commissioner (who shall submit a report of the disability) whenever the deputy commissioner was of the opinion that the employer's physician was partial in his estimate of the degree of permanent disability or the extent of temporary disability and charging cost of examination to the employer, if he

was a self-insurer, or to the insurance company which was carrying the risk when the physician's estimate was not impartial.

Subd. (f). Pub. L. 92-576 added subd. (f). Former subd. (f) redesignated (g).

Subd. (g). Pub. L. 92-576 redesignated former subd. (f) as (g) and substituted "medical examinations, treatment, or service" for "such treatment or service", "charges as prevail in the community for such treatment" for "charges as prevail in the same community for similar treatment of injured persons of like standard of living", "regulation by the Secretary" for "regulation by the deputy commissioner", and prescribed issuance of regulations respecting medical expenses chargeable against employer. Former subd. (g) redesignated (h).

Subd. (h). Pub. L. 92-576 redesignated former subd. (g) as (h) and inserted the word "that" preceding "suit".

Subd. (i). Pub. L. 92-576 added subd. (i).

1960—Subd. (a). Pub. L. 86-757 designated the first sentence as subd. (a). Remainder of former subd. (a) redesignated (d).

Subds. (b), (c). Pub. L. 86-757 added subds. (b) and (c). Former subds. (b) and (c) redesignated (e) and (f).

Subd. (d). Pub. L. 86-757 redesignated all but first sentence of former subd. (a) as (d), substituting "If the employer fails to provide the medical or other treatment, services, and supplies required to be furnished by subd. (a) of this section, after request by the injured employee, or fails to maintain a panel of physicians as required by subd. (c) of this section, or fails to permit the employee to choose an attending physician from such panel, such injured employee may procure such medical or other treatment, services, and supplies and select a physician to render treatment and services at the expense of the employer" for "If the employer fails to provide the same, after request by the injured employee, such injured employee may do so at the expense of the employer." Former subd. (d) redesignated (g).

Subds. (e) to (g). Pub. L. 86-757 redesignated former subds. (b) to (d) as (e) to (g), deleting "unless and until notice of election to sue has been given as required by section 933(a) of this title" and "without the giving of such notice" preceding and following "or suit has been brought against such third party" in subd. (g).

1938—Subd. (a). Act June 25, 1938, § 2, authorized deputy commissioner to excuse failure to furnish prescribed medical report.

Subd. (d). Act June 25, 1938, § 3, added subd. (d).

1934—Subd. (a). Act May 26, 1934, authorized deputy commissioner to suspend payment of compensation for refusal, without justification, to submit to medical or surgical treatment.

Effective Date of 1972 Amendment

Amendment by Pub. L. 92-576 effective 30 days after Oct. 27, 1972, see section 22 of Pub. L. 92-576, set out as an Effective Date of 1972 Amendment note under section 902 of this title.

Repeals

Reorg. Plan No. 19 of 1950, § 1, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1271, which was formerly set out in the credit to this section and which transferred the functions of the Federal Security Administrator to the Secretary of Labor, was repealed by Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 662.

Reorg. Plan No. 2 of 1946, § 3, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095, which was formerly set out in the credit to this section and which transferred the functions of the United States Employees' Compensation Commission to the Federal Security Administrator, was repealed by Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 662.

Cross References

Reports, see section 930 of this title.

Suspension of proceedings with respect to claims for refusal to submit to medical examination, see section 919 of this title.

Section Referred to in Other Sections

This section is referred to in sections 904, 906, 928, 933, 944 of this title; title 30 section 932.

§ 908. Compensation for disability

Compensation for disability shall be paid to the employee as follows:

(a) Permanent total disability: In case of total disability adjudged to be permanent 66⅔ per centum of the average weekly wages shall be paid to the employee during the continuance of such total disability. Loss of both hands, or both arms, or both feet, or both legs, or both eyes, or of any two thereof shall, in the absence of conclusive proof to the contrary, constitute permanent total disability. In all other cases permanent total disability shall be determined in accordance with the facts.

(b) Temporary total disability: In case of disability total in character but temporary in quality 66⅔ per centum of the average weekly wages shall be paid to the employee during the continuance thereof.

(c) Permanent partial disability: In case of disability partial in character but permanent in quality the compensation shall be 66⅔ per centum of the average weekly wages, which shall be in addition to compensation for temporary total disability or temporary partial disability paid in accordance with subdivision (b) or subdivision (e) of this section, respectively, and shall be paid to the employee, as follows:

(1) Arm lost, three hundred and twelve weeks' compensation.

(2) Leg lost, two hundred and eighty-eight weeks' compensation.

(3) Hand lost, two hundred and forty-four weeks' compensation.

(4) Foot lost, two hundred and five weeks' compensation.

(5) Eye lost, one hundred and sixty weeks' compensation.

(6) Thumb lost, seventy-five weeks' compensation.

(7) First finger lost, forty-six weeks' compensation.

(8) Great toe lost, thirty-eight weeks' compensation.

(9) Second finger lost, thirty weeks' compensation.

(10) Third finger lost, twenty-five weeks' compensation.

(11) Toe other than great toe lost, sixteen weeks' compensation.

(12) Fourth finger lost, fifteen weeks' compensation.

(13) Loss of hearing: Compensation for loss of hearing of one year, fifty-two weeks. Compensation for loss of hearing of both ears, two hundred weeks.

(14) Phalanges: Compensation for loss of more than one phalange of a digit shall be the same as for loss of the entire digit. Compensation for loss of the first phalange shall be one-half of the compensation for loss of the entire digit.

(15) Amputated arm or leg: Compensation for an arm or a leg, if amputated at or above the elbow or the knee, shall be the same as

for a loss of the arm or leg; but, if amputated between the elbow and the wrist or the knee and the ankle, shall be the same as for loss of a hand or foot.

(16) Binocular vision or per centum of vision: Compensation for loss of binocular vision or for 80 per centum or more of the vision of an eye shall be the same as for loss of the eye.

(17) Two or more digits: Compensation for loss of two or more digits, or one or more phalanges of two or more digits, of a hand or foot may be proportioned to the loss of use of the hand or foot occasioned thereby, but shall not exceed the compensation for loss of a hand or foot.

(18) Total loss of use: Compensation for permanent total loss of use of a member shall be the same as for loss of the member.

(19) Partial loss or partial loss of use: Compensation for permanent partial loss or loss of use of a member may be for proportionate loss or loss of use of the member.

(20) Disfigurement: Proper and equitable compensation not to exceed $3,500 shall be awarded for serious disfigurement of the face, head, or neck or of other normally exposed areas likely to handicap the employee in securing or maintaining employment.

(21) Other cases: In all other cases in this class of disability the compensation shall be 66⅔ per centum of the difference between his average weekly wages and his wage-earning capacity thereafter in the same employment or otherwise, payable during the continuance of such partial disability, but subject to reconsideration of the degree of such impairment by the deputy commissioner on his own motion or upon application of any party in interest.

(22) In any case in which there shall be a loss of, or loss of use of, more than one member or parts of more than one member set forth in paragraphs (1) to (19) of this subdivision, not amounting to permanent total disability, the award of compensation shall be for the loss of, or loss of use of, each such member or part thereof, which awards shall run consecutively, except that where the injury affects only two or more digits of the same hand or foot, paragraph (17) of this subdivision shall apply.

(d)(1) If an employee who is receiving compensation for permanent partial disability pursuant to subdivision (c)(1)–(20) of this section dies from causes other than the injury, the total amount of the award unpaid at the time of death shall be payable to or for the benefit of his survivors, as follows:

(A) if the employee is survived only by a widow or widower, such unpaid amount of the award shall be payable to such widow or widower,

(B) if the employee is survived only by a child or children, such unpaid amount of the award shall be paid to such child or children in equal shares,

(C) if the employee is survived by a widow or widower and a child or children, such unpaid amount of the award shall be payable to such survivors in equal shares,

(D) if there be no widow or widower and no surviving child or children, such unpaid amount of the award shall be paid to the survivors specified in section 909(d) of this title (other than a wife, husband, or child); and the amount to be paid each such survivor shall be determined by multiplying such unpaid amount of the award by the appropriate percentage specified in section 909(d) of this title, but if the aggregate amount to which all such survivors are entitled, as so determined, is less than such unpaid amount of the award, the excess amount shall be divided among such survivors pro rata according to the amount otherwise payable to each under this subparagraph.

(2) Notwithstanding any other limitation in section 909 of this title, the total amount of any award for permanent partial disability pursuant to subdivision (c)(1)–(20) of this section unpaid at time of death shall be payable in full in the appropriate distribution.

(3) If an employee who was receiving compensation for permanent partial disability pursuant to subdivision (c)(21) of this section dies from causes other than the injury, his survivors shall receive death benefits as provided in section 909(b)–(g) of this title, except that the percentage figures therein shall be applied to the weekly compensation payable to the employee at the time of his death multiplied by 1.5, rather than to his average weekly wages.

(4) An award for disability may be made after the death of the injured employee. Except where compensation is payable under subdivision (c)(21) of this section if there be no survivors as prescribed in this section, then the compensation payable under this subsection shall be paid to the special fund established under section 944(a) of this title.

(e) Temporary partial disability: In case of temporary partial disability resulting in decrease of earning capacity the compensation shall be two-thirds of the difference between the injured employee's average weekly wages before the injury and his wage-earning capacity after the injury in the same or another employment, to be paid during the continuance of such disability, but shall not be paid for a period exceeding five years.

(f) Injury increasing disability:

(1) In any case in which an employee having an existing permanent partial disability suffers injury, the employer shall provide compensation for such disability as is found to be attributable to that injury based upon the average weekly wages of the employee at the time of the injury. If following an injury falling within the provisions of subdivision (c)(1)–(20) of this section, the employee is totally and permanently disabled, and the disability is found not to be due solely to that injury, the employer shall provide compensation for the applicable prescribed period of weeks provided for in that section for the subsequent injury, or for one hundred and four weeks, whichever is the greater. In all other cases of total permanent disability or of death, found not to be due solely to that injury, of an employee having an existing permanent partial disability, the employer shall provide in addition to compensation under

paragraphs (b) and (e) of this section, compensation payments or death benefits for one hundred and four weeks only. If following an injury falling within the provisions of subdivision (c)(1)–(20) of this section, the employee has a permanent partial disability and the disability is found not to be due solely to that injury, and such disability is materially and substantially greater than that which would have resulted from the subsequent injury alone, the employer shall provide compensation for the applicable period of weeks provided for in that section for the subsequent injury, or for one hundred and four weeks, whichever is the greater.

In all other cases in which the employee has a permanent partial disability, found not to be due solely to that injury, and such disability is materially and substantially greater than that which would have resulted from the subsequent injury alone, the employer shall provide in addition to compensation under paragraphs (b) and (e) of this section, compensation for one hundred and four weeks only.

(2) After cessation of the payments for the period of weeks provided for herein, the employee or his survivor entitled to benefits shall be paid the remainder of the compensation that would be due out of the special fund established in section 944 of this title.

(g) Maintenance for employees undergoing vocational rehabilitation: An employee who as a result of injury is or may be expected to be totally or partially incapacitated for a remunerative occupation and who, under the direction of the Secretary as provided by section 939(c) of this title, is being rendered fit to engage in a remunerative occupation, shall receive additional compensation necessary for his maintenance, but such additional compensation shall not exeed $25 a week. The expense shall be paid out of the special fund established in section 944 of this title.

(h) The wage-earning capacity of an injured employee in cases of partial disability under subdivision (c)(21) of this section or under subdivision (e) of this section shall be determined by his actual earnings if such actual earnings fairly and reasonably represent his wage-earning capacity: *Provided, however,* That if the employee has no actual earnings or his actual earnings do not fairly and reasonably represent his wage-earning capacity, the deputy commissioner may, in the interest of justice, fix such wage-earning capacity as shall be reasonable, having due regard to the nature of his injury, the degree of physical impairment, his usual employment, and any other factors or circumstances in the case which may affect his capacity to earn wages in his disabled condition, including the effect of disability as it may naturally extend into the future.

(i)(A) Whenever the deputy commissioner determines that it is for the best interests of an injured employee entitled to compensation, he may approve agreed settlements of the interested parties, discharging the liability of the employer for such compensation, notwithstanding the provisions of section 915(b) and section 916 of this title: *Provided,* That if the employee should die from causes other than the injury after the deputy commissioner has approved an agreed settlement as provided for herein, the sum so approved shall be payable, in the manner prescribed in this subsection, to and for the benefit of the persons enumerated in subsection (d) of this section.

(B) Whenever the Secretary determines that it is for the best interests of the injured employee entitled to medical benefits, he may approve agreed settlements of the interested parties, discharging the liability of the employer for such medical benefits, notwithstanding the provisions of section 916 of this title: *Provided,* That if the employee should die from causes other than the injury after the Secretary has approved an agreed settlement as provided for herein, the sum so approved shall be payable, in the manner prescribed in this subdivision, to and for the benefit of the persons enumerated in subdivision (d) of this section.

(Mar. 4, 1927, ch. 509, § 8, 44 Stat. 1427; May 26, 1934, ch. 354, §§ 2, 3, 48 Stat. 806; June 25, 1938, ch. 685, §§ 4, 5, 52 Stat. 1165; June 24, 1948, ch. 623, § 2, 62 Stat. 602; July 26, 1956, ch. 735, §§ 2, 3, 70 Stat. 655; Oct. 27, 1972, Pub. L. 92-576, §§ 5(c), 7, 9, 20(a), 86 Stat. 1253, 1255, 1257, 1264.)

AMENDMENTS

1972—Subd. (c)(20). Pub. L. 92-576, § 7, included compensation for serious disfigurement of the neck and other normally exposed areas likely to handicap the employee in securing or maintaining employment.

Subd. (d). Pub. L. 92-576, § 5(c), in revising the provisions substituted par. (1), subpars. (A) to (D) and pars. (2) to (4) for former provisions having an introductory par. and pars. (1) to (5), making the following changes:

Par. (1) incorporated former introductory par. providing for payments to survivors rather than for payments "for the benefit of the persons following"; subpar. (A) incorporated former par. (1) providing for a widower rather than dependent husband;

Subpar. (B) incorporated former par. (4), deleting reference to children under eighteen years, and providing for payment in equal shares;

Subpar. (C) incorporated former par. (2) for payment in equal shares rather than one half to surviving wife or dependent husband and one half to surviving child or children, substituting reference to "widow or widower" for "surviving wife or dependent husband", and deleting reference to "surviving" preceding "child or children";

Subpar. (D) added;

Pars. (2) and (3) added and former par. (3) deleted, such par. making it discretionary with the deputy commissioner to appoint a guardian for receipt of minor child's compensation; and

Par. (4) incorporated former par. (5), inserting therein provision for payment of compensation to the special fund except where payable under subd. (c)(21) of this section.

Subd. (f)(1). Pub. L. 92-576, § 9(a) added par. (1) and struck out former par. (1) which provided that if an employee received an injury which of itself would only cause permanent partial disability but which, combined with a previous disability did in fact cause permanent total disability, the employer should provide compensation only for the disability caused by the subsequent injury, and the proviso of such former par. (1) providing that in addition to compensation for the permanent partial disability, and after the cessation of the payments for the prescribed period of weeks, the employee should be paid the remainder of the compensation that would be due for permanent total disability and provision that the additional compensation should be paid out of the special fund established in

section 944 of this title, now covered in par. (2) of this subsection.

Subd. (f)(2). Pub. L. 92-576, § 9, incorporated proviso of first sentence and second sentence of former par. (1) in provisions designated as par. (2) and struck out former par. (2) which stated that in all other cases in which, following a previous disability, an employee received an injury which was not covered by former subd. (1) of this subsection, the employer should provide compensation only for the disability caused by the subsequent injury, and in determining compensation for the subsequent injury or for death resulting therefrom, the average weekly wages should be such sum as would reasonably represent the earning capacity of the employee at the time of the subsequent injury, now covered in par. (1) of this subsection.

Subd. (i). Pub. L. 92-576, § 20(a), designated existing provisions as subpar. (A), substituted therein "Whenever" for "In cases under subdivision (c)(21) and subdivision (e) of this section, whenever", "he may approve" for "he may, with the approval of the Secretary, approve", and "deputy commissioner" for "Secretary", and deleted following "Provided," where first appearing "That the sum so agreed upon shall be payable in installments as provided in section 914(b) of this title, which installments shall be subject to commutation under section 914(j) of this title; And provided further," and added subpar. (B).

1956—Subd. (c). Act July 26, 1956, § 2, increased periods in schedule of compensation as follows:

Par. (1) Arm lost, increased from two hundred and eighty to three hundred and twelve weeks' compensation.

Par. (2) Leg lost, increased from two hundred and forty-eight to two hundred and eighty-eight weeks' compensation.

Par. (3) Hand lost, increased from two hundred and twelve to two hundred and forty-four weeks' compensation.

Par. (4) Foot lost, increased from one hundred and seventy-three weeks to two hundred and five weeks' compensation.

Par. (5) Eye lost, increased from one hundred and forty to one hundred and sixty weeks' compensation.

Par. (6) Thumb lost, increased from fifty-one to seventy-five weeks' compensation.

Par. (7) First finger lost, increased from twenty-eight to forty-six weeks' compensation.

Par. (8) Great toe lost, increased from twenty-six to thirty-eight weeks' compensation.

Par. (9) Second finger lost, increased from eighteen to thirty weeks' compensation.

Par. (10) Third finger lost, increased from seventeen to twenty-five weeks' compensation.

Par. (11) Toe other than great toe lost, increased from eight to sixteen weeks' compensation.

Par. (12) Fourth finger lost, increased from seven to fifteen weeks' compensation.

Subd. (g). Act July 26, 1956, § 3, substituted "$25" for "$10".

1948—Subd. (c). Act June 24, 1948, "or temporary partial disability", "or subdivision (e)", and "respectively".

1938—Subd. (c). Act June 25, 1938, § 4, in par. (22), added the exception clause.

Subds. (h) and (i). Act June 25, 1938, § 5 added subds. (h) and (i).

1934—Subd. (c). Act May 26, 1934, § 2, inserted in the opening par. the clause "which shall be in addition to compensation for temporary total disability paid in accordance with subdivision (b) of this section" and decreased periods in schedule of compensation of pars. (1) to (12).

Subd. (c). Act May 26, 1934, § 3, substituted new par. (22), providing that "In any case in which there shall be a loss of, or loss of use of, more than one member or parts of more than one member set forth in paragraphs (1) to (19) of this subdivision, not amounting to permanent total disability, the award of compensation shall be for the loss of, or loss of use of, each such member or part thereof, which awards shall run consecutively.", for former provisions, providing that "In case of temporary total disability and permanent partial disability, both resulting from the same injury, if the temporary total disability continues for a longer period than the number of weeks set forth in the following schedule, the period of temporary total disability in excess of such number of weeks shall be added to the compensation period provided in this subdivision: Arm, thirty-two weeks; leg, forty weeks; hand, thirty-two weeks; foot, thirty-two weeks; eye, twenty weeks; thumb, twenty-four weeks; first finger, eighteen weeks; great toe, twelve weeks; second finger, twelve weeks; third finger, eight weeks; fourth finger, eight weeks; toe other than great toe, eight weeks.

"In any case resulting in loss or partial loss of arm, leg, hand, foot, eye, thumb, finger, or toe, where the temporary total disability does not extend beyond the periods above mentioned for such injury, compensation shall be limited to the schedule contained in this subdivision."

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-576 effective 30 days after Oct. 27, 1972, see section 22 of Pub. L. 92-576, set out as an Effective Date of 1972 Amendment note under section 902 of this title.

EFFECTIVE DATE OF 1956 AMENDMENT

Amendment of subd. (c), pars. (1) to (12) of subd. (c) by act July 26, 1956, applicable only with respect to injuries and death occurring on or after July 26, 1956, see section 9 of act July 26, 1956, set out as an Effective Date of 1956 Amendment note under section 906 of this title.

EFFECTIVE DATE OF 1948 AMENDMENT

Amendment by act June 24, 1948, applicable to death or injuries occurring after June 24, 1948, see section 6 of act June 24, 1948, set out as an Effective Date of 1948 Amendment note under section 906 of this title.

REPEALS

Reorg. Plan No. 19 of 1950, § 1, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1271, which was formerly set out in the credit to this section and which transferred the functions of the Federal Security Administrator to the Secretary of Labor, was repealed by Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 662.

Reorg. Plan No. 2 of 1946, § 3, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095, which was formerly set out in the credit to this section and which transferred the functions of the United States Employees' Compensation Commission to the Federal Security Administrator, was repealed by Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 662.

CROSS REFERENCES

Liability for compensation, see section 904 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 904, 944 of this title; title 30 section 932; title 42 sections 1652, 1702.

§ 909. Compensation for death

If the injury causes death, or if the employee who sustains permanent total disability due to the injury thereafter dies from causes other than the injury, the compensation shall be known as a death benefit and shall be payable in the amount and to or for the benefit of the persons following:

(a) Reasonable funeral expenses not exceeding $1,000.

(b) If there be a widow or widower and no child of the deceased, to such widow or widower 50 per centum of the average wages of the de-

ceased, during widowhood, or dependent widowerhood, with two years' compensation in one sum upon remarriage; and if there be a surviving child or children of the deceased, the additional amount of 16⅔ per centum of such wages for each such child; in case of the death or remarriage of such widow or widower, if there be one surviving child of the deceased employee, such child shall have his compensation increased to 50 per centum of such wages, and if there be more than one surviving child of the deceased employee, to such children, in equal parts, 50 per centum of such wages increased by 16⅔ per centum of such wages for each child in excess of one: *Provided*, That the total amount payable shall in no case exceed 66⅔ per centum of such wages. The deputy commissioner having jurisdiction over the claim may, in his discretion, require the appointment of a guardian for the purpose of receiving the compensation of a minor child. In the absence of such a requirement the appointment of a guardian for such purposes shall not be necessary.

(c) If there be one surviving child of the deceased, but no widow or widower, then for the support of such child 50 per centum of the wages of the deceased; and if there be more than one surviving child of the deceased, but no widow or dependent husband, then for the support of such children, in equal parts 50 per centum of such wages increased by 16⅔ per centum of such wages for each child in excess of one: *Provided*, That the total amount payable shall in no case exceed 66⅔ per centum of such wages.

(d) If there be no surviving wife or husband or child, or if the amount payable to a surviving wife or husband and to children shall be less in the aggregate than 66⅔ per centum of the average wages of the deceased; then for the support of grandchildren or brothers and sisters, if dependent upon the deceased at the time of the injury, and any other persons who satisfy the definition of the term "dependent" in section 152 of title 26, but are not otherwise eligible under this section, 20 per centum of such wages for the support of each such person during such dependency and for the support of each parent, or grandparent, of the deceased if dependent upon him at the time of the injury, 25 per centum of such wages during such dependency. But in no case shall the aggregate amount payable under this subdivision exceed the difference between 66⅔ per centum of such wages and the amount payable as hereinbefore provided to widow or widower and for the support of surviving child or children.

(e) In computing death benefits the average weekly wages of the deceased shall be considered to have been not less than the applicable national average weekly wage as prescribed in section 906(b) of this title but the total weekly benefits shall not exceed the average weekly wages of the deceased.

(f) All questions of dependency shall be determined as of the time of the injury.

(g) Aliens: Compensation under this chapter to aliens not residents (or about to become nonresidents) of the United States or Canada shall be the same in amount as provided for residents, except that dependents in any foreign country shall be limited to surviving wife and child or children, or if there be no surviving wife or child or children, to surviving father or mother whom the employee has supported, either wholly or in part, for the period of one year prior to the date of the injury, and except that the Secretary may, at his option or upon the application of the insurance carrier shall, commute all future installments of compensation to be paid to such aliens by paying or causing to be paid to them one-half of the commuted amount of such future installments of compensation as determined by the Secretary.

(Mar. 4, 1927, ch. 509, § 9, 44 Stat. 1429; June 25, 1938, ch. 685, § 6, 52 Stat. 1166; June 24, 1948, ch. 623, § 3, 62 Stat. 602; July 26, 1956, ch. 735, § 4, 70 Stat. 655; July 14, 1961, Pub. L. 87-87, § 2, 75 Stat. 203; Oct. 27, 1972, Pub. L. 92-576, §§ 5(d), 10, 20(c)(2), 86 Stat. 1253, 1257, 1265.)

AMENDMENTS

1972—Pub. L. 92-576, § 5(d) added to introductory provision that the compensation shall be known as a death benefit if the employee who sustains permanent total disability due to the injury thereafter dies from causes other than the injury.

Subd. (a). Pub. L. 92-576, § 10(a), substituted "$1,000" for "$400".

Subd. (b). Pub. L. 92-576, §§ 10(b), 20(c)(2), substituted "50" for "35" per centum in three instances and "16⅔" for "15" per centum in two instances and "widow or widower" for "surviving wife or dependent husband" in three instances.

Subd. (c). Pub. L. 92-576, §§ 10(b), 20(c)(2), substituted "50" for "35" per centum in two instances and "16⅔" for "15" per centum and "widow or widower" for "surviving wife or dependent husband".

Subd. (d). Pub. L. 92-576, §§ 10(c), 20(c)(2), in first sentence, substituted "husband or child," and "husband" for "dependent husband or child" and "dependent husband" and "20" for "15" per centum, and inserted the clause "and any other persons who satisfy the definition of the term 'dependent' in section 152 of title 26, but are not otherwise eligible under this section" following "time of the injury," and "during such dependency" following "support of each such person", and in second sentence, substituted "widow or widower" for "surviving wife or dependent husband", respectively.

Subd. (e). Pub. L. 92-576, § 10(d), substituted "less than the applicable national average weekly wage as prescribed in section 906(b) of this title but the total weekly benefits shall not exceed the average weekly wages of the deceased" for "more than $105 nor less than $27 but the total weekly compensation shall not exceed the weekly wages of the deceased".

1961—Subd. (e). Pub. L. 87-87 increased the maximum limitation with respect to average weekly wages from "$81" to "$105" in the computation of death benefits.

1956—Subd. (e). Act July 26, 1956, substituted "$81" for "$52.50" and "$27" for "$18".

1948—Subd. (a). Act June 24, 1948, increased funeral expenses from $200 to $400.

Subd. (b). Act June 24, 1948, increased the benefits to children of deceased workmen from 10 percent to 15 percent.

Subd. (c). Act June 24, 1948, increased the death benefits of orphaned children from 15 percent to 35 percent.

Subd. (e). Act June 24, 1948, correlated the basis for computing death benefits with the basis for computing disability benefits under section 906(b) of this title.

1938—Subds. (b) to (d). Act June 25, 1938, deleted references to children as being under eighteen years of age.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by section 20(c)(2) of Pub. L. 92-576 substituting "widow or widower" for "surviving wife or dependent husband" wherever appearing, applicable only with respect to deaths or injuries occurring after Oct. 27, 1972, see section 20(c)(3) of Pub. L. 92-576, set out as an Effective Date of 1972 Amendment note under section 902 of this title.

Amendment by Pub. L. 92-576 effective 30 days after Oct. 27, 1972, see section 22 of Pub. L. 92-576, set out as an Effective Date of 1972 Amendment note under section 902 of this title.

EFFECTIVE DATE OF 1961 AMENDMENT

Amendment of subd. (e) by Pub. L. 87-87 effective as to death sustained on or after July 14, 1961, see section 4 of Pub. L. 87-87, set out as an Effective Date of 1961 Amendment note under section 906 of this title.

EFFECTIVE DATE OF 1956 AMENDMENT

Amendment of subd. (e) by act July 26, 1956, applicable only with respect to injuries and death occurring on or after July 26, 1956, see section 9 of act July 26, 1956, set out as an Effective Date of 1956 Amendment note under section 906 of this title.

EFFECTIVE DATE OF 1948 AMENDMENT

Amendment by act June 24, 1948, applicable to death or injuries occurring after June 24, 1948, see section 6 of act June 24, 1948, set out as an Effective Date of 1948 Amendment note under section 906 of this title.

REPEALS

Reorg. Plan No. 19 of 1950, § 1, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1271, which was formerly set out in the credit to this section and which transferred the functions of the Federal Security Administrator to the Secretary of Labor, was repealed by Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 662.

Reorg. Plan No. 2 of 1946, § 3, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095, which was formerly set out in the credit to this section and which transferred the functions of the United States Employees' Compensation Commission to the Federal Security Administrator, was repealed by Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 662.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 904, 908 of this title; title 30 section 932; title 42 sections 1652, 1701, 1702.

§ 910. Determination of pay

Except as otherwise provided in this chapter, the average weekly wage of the injured employee at the time of the injury shall be taken as the basis upon which to compute compensation and shall be determined as follows:

(a) If the injured employee shall have worked in the employment in which he was working at the time of the injury, whether for the same or another employer, during substantially the whole of the year immediately preceding his injury, his average annual earnings shall consist of three hundred times the average daily wage or salary for a six-day worker and two hundred and sixty times the average daily wage or salary for a five-day worker, which he shall have earned in such employment during the days when so employed.

(b) If the injured employee shall not have worked in such employment during substantially the whole of such year, his average annual earnings, if a six-day worker, shall consist of three hundred times the average daily wage or salary, and, if a five-day worker, two hundred and sixty times the average daily wage or salary, which an employee of the same class working substantially the whole of such immediately preceding year in the same or in similar employment in the same or a neighboring place shall have earned in such employment during the days when so employed.

(c) If either of the foregoing methods of arriving at the average annual earnings of the injured employee cannot reasonably and fairly be applied, such average annual earnings shall be such sum as, having regard to the previous earnings of the injured employee in the employment in which he was working at the time of the injury, and of other employees of the same or most similar class working in the same or most similar employment in the same or neighboring locality, or other employment of such employee, including the reasonable value of the services of the employee if engaged in self-employment, shall reasonably represent the annual earning capacity of the injured employee.

(d) The average weekly wages of an employee shall be one fifty-second part of his average annual earnings.

(e) If it be established that the injured employee was a minor when injured, and that under normal conditions his wages should be expected to increase during the period of disability the fact may be considered in arriving at his average weekly wages.

(f) Effective October 1 of each year, the compensation or death benefits payable for permanent total disability or death arising out of injuries sustained after October 27, 1972, shall be increased by a percentage equal to the percentage (if any) by which the applicable national weekly wage for the period beginning on such October 1, as determined under section 906(b) of this title, exceeds the applicable national average weekly wage, as so determined, for the period beginning with the preceding October 1.

(g) The weekly compensation after adjustment under subsection (f) of this section shall be fixed at the nearest dollar. No adjustment of less than $1 shall be made, but in no event shall compensation or death benefits be reduced.

(h)(1) Not later than ninety days after October 27, 1972, the compensation to which an employee or his survivor is entitled due to total permanent disability or death which commenced or occurred prior to October 27, 1972, shall be adjusted. The amount of such adjustment shall be determined in accordance with regulations of the Secretary by designating as the employee's average weekly wage the applicable national average weekly wage determined under section 906(b) of this title and (A) computing the compensation to which such employee or survivor would be entitled if the disabling injury or death had occurred on the day following October 27, 1972, and (B) subtracting therefrom the compensation to which such employee or survivor was entitled on October 27, 1972; except that no such employee or survivor shall receive total compensation amounting to less than that to which he was entitled on October 27, 1972. Notwithstanding the foregoing sentence, where such an employee or his survivor was awarded compensation as the result of

death or permanent total disability at less than the maximum rate that was provided in this chapter at the time of the injury which resulted in the death or disability, then his average weekly wage shall be determined by increasing his average weekly wage at the time of such injury by the percentage which the applicable national average weekly wage has increased between the year in which the injury occurred and the first day of the first month following October 27, 1972. Where such injury occurred prior to 1947, the Secretary shall determine, on the basis of such economic data as he deems relevant, the amount by which the employee's average weekly wage shall be increased for the pre-1947 period.

(2) Fifty per centum of any additional compensation or death benefit paid as a result of the adjustment required by paragraphs (1) and (3) of this subsection shall be paid out of the special fund established under section 944 of this title, and 50 per centum shall be paid from appropriations.

(3) For the purposes of subsections (f) and (g) of this section an injury which resulted in permanent total disability or death which occurred prior to October 27, 1972, shall be considered to have occurred on the day following such date.

(Mar. 4, 1927, ch. 509, § 10, 44 Stat. 1431; June 24, 1948, ch. 623, § 4, 62 Stat. 603; Oct. 27, 1972, Pub. L. 92-576, § 11, 86 Stat. 1258.)

AMENDMENTS

1972—Subds. (f) to (h). Pub. L. 92-576 added subds. (f) to (h).

1948—Subd. (a). Act June 24, 1948, included a factor (a 260 multiplier) so as to make this subd. useful in 5-day week employments.

Subd. (b). Act June 24, 1948, included the new factor (a 260 multiplier) to make this subd. consistent with subd. (a).

Subd. (c). Act June 24, 1948, permitted the inclusion of all earnings of the injured workman in determining the employee's annual earning capacity.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-576 effective 30 days after Oct. 27, 1972, see section 22 of Pub. L. 92-576, set out as an Effective Date of 1972 Amendment note under section 902 of this title.

EFFECTIVE DATE OF 1948 AMENDMENT

Amendment by act June 24, 1948, applicable to death or injuries occurring after June 24, 1948, see section 6 of act June 24, 1948, set out as an Effective Date of 1948 Amendment note under section 906 of this title.

CROSS REFERENCES

Time for commencement of compensation, see section 906 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 906, 944 of this title; title 30 section 932; title 42 section 1702.

§ 911. Guardian for minor or incompetent

The deputy commissioner may require the appointment by a court of competent jurisdiction, for any person who is mentally incompetent or a minor, of a guardian or other representative to receive compensation payable to such person under this chapter and to exercise the powers granted to or to perform the duties required of such person under this chapter.

(Mar. 4, 1927, ch. 509, § 11, 44 Stat. 1431.)

CROSS REFERENCES

Additional provisions, see section 908 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 944 of this title.

§ 912. Notice of injury or death

(a) Time limitation

Notice of an injury or death in respect of which compensation is payable under this chapter shall be given within thirty days after the date of such injury or death, or thirty days after the employee or beneficiary is aware or in the exercise of reasonable diligence should have been aware of a relationship between the injury or death and the employment. Such notice shall be given (1) to the deputy commissioner in the compensation district in which the injury occurred, and (2) to the employer.

(b) Form and content

Such notice shall be in writing, shall contain the name and address of the employee and a statement of the time, place, nature, and cause of the injury or death, and shall be signed by the employee or by some person on his behalf, or in case of death, by any person claiming to be entitled to compensation for such death or by a person on his behalf.

(c) Delivery requirements

Notice shall be given to the deputy commissioner by delivering it to him or sending it by mail addressed to his office, and to the employer by delivering it to him or by sending it by mail addressed to him at his last known place of business. If the employer is a partnership, such notice may be given to any partner, or if a corporation, such notice may be given to any agent or officer thereof upon whom legal process may be served or who is in charge of the business in the place where the injury occurred.

(d) Failure to give notice

Failure to give such notice shall not bar any claim under this chapter (1) if the employer (or his agent in charge of the business in the place where the injury occurred) or the carrier had knowledge of the injury or death and the deputy commissioner determines that the employer or carrier has not been prejudiced by failure to give such notice, or (2) if the deputy commissioner excuses such failure on the ground that for some satisfactory reason such notice could not be given; nor unless objection to such failure is raised before the deputy commissioner at the first hearing of a claim for compensation in respect of such injury or death.

(Mar. 4, 1927, ch. 509, § 12, 44 Stat. 1431; Oct. 27, 1972, Pub. L. 92-576, § 12(a), 86 Stat. 1259.)

AMENDMENTS

1972—Subd. (a). Pub. L. 92-576 provided for notice of an injury or death within thirty days after the employee or beneficiary is aware or in the exercise of reasonable diligence should have been aware of a relationship between the injury or death and the employment.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-576 effective 30 days after Oct. 27, 1972, see section 22 of Pub. L. 92-576, set out as an Effective Date of 1972 Amendment note under section 902 of this title.

CROSS REFERENCES

Cancellation of contract or policy of insurance, notice in accordance with subd. (c), see section 936 of this title.

Report of injury or death to Secretary, see section 930 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 936 of this title; title 30 section 932.

§ 913. Filing of claims

(a) Time to file

Except as otherwise provided in this section, the right to compensation for disability or death under this chapter shall be barred unless a claim therefore is filed within one year after the injury or death. If payment of compensation has been made without an award on account of such injury or death, a claim may be filed within one year after the date of the last payment. Such claim shall be filed with the deputy commissioner in the compensation district in which such injury or death occurred. The time for filing a claim shall not begin to run until the employee or beneficiary is aware, or by the exercise of reasonable diligence should have been aware, of the relationship between the injury or death and the employment.

(b) Failure to file

Notwithstanding the provisions of subdivision (a) of this section failure to file a claim within the period prescribed in such subdivision shall not be a bar to such right unless objection to such failure is made at the first hearing of such claim in which all parties in interest are given reasonable notice and opportunity to be heard.

(c) Effect on incompetents and minors

If a person who is entitled to compensation under this chapter is mentally incompetent or a minor, the provisions of subdivision (a) of this section shall not be applicable so long as such person has no guardian or other authorized representative, but shall be applicable in the case of a person who is mentally incompetent or a minor from the date of appointment of such guardian or other representative, or in the case of a minor, if no guardian is appointed before he becomes of age, from the date he becomes of age.

(d) Tolling provision

Where recovery is denied to any person, in a suit brought at law or in admiralty to recover damages in respect of injury or death, on the ground that such person was an employee and that the defendant was an employer within the meaning of this chapter and that such employer had secured compensation to such employee under this chapter, the limitation of time prescribed in subdivision (a) of this section shall begin to run only from the date of termination of such suit.

(Mar. 4, 1927, ch. 509, § 13, 44 Stat. 1432; Oct. 27, 1972, Pub. L. 92-576, § 12(b), 86 Stat. 1259.)

AMENDMENTS

1972—Subd. (a). Pub. L. 92-576 added the introductory phrase "Except as otherwise provided in this section" and provided that the time for filing a claim shall not begin to run until the employee or beneficiary is aware, or by the exercise of reasonable diligence should have been aware, of the relationship between the injury or death and the employment.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-576 effective 30 days after Oct. 27, 1972, see section 22 of Pub. L. 92-576, set out as an Effective Date of 1972 Amendment note under section 902 of this title.

CROSS REFERENCES

Report of injury or death to Secretary, see section 930 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 919 of this title; title 30 section 932.

§ 914. Payment of compensation

(a) Manner of payment

Compensation under this chapter shall be paid periodically, promptly, and directly to the person entitled thereto, without an award, except where liability to pay compensation is controverted by the employer.

(b) Period of installment payments

The first installment of compensation shall become due on the fourteenth day after the employer has knowledge of the injury or death, on which date all compensation then due shall be paid. Thereafter compensation shall be paid in installments, semimonthly, except where the deputy commissioner determines that payment in installments should be made monthly or at some other period.

(c) Notification of commencement or suspension of payment

Upon making the first payment, and upon suspension of payment for any cause, the employer shall immediately notify the deputy commissioner, in accordance with a form prescribed by the Secretary, that payment of compensation has begun or has been suspended, as the case may be.

(d) Right to compensation controverted

If the employer controverts the right to compensation he shall file with the deputy commissioner on or before the fourteenth day after he has knowledge of the alleged injury or death, a notice, in accordance with a form prescribed by the Secretary stating that the right to compensation is controverted, the name of the claimant, the name of the employer, the date of the alleged injury or death, and the grounds upon which the right to compensation is controverted.

(e) Additional compensation for overdue installment payments payable without award

If any installment of compensation payable without an award is not paid within fourteen days after it becomes due, as provided in subdivision (b) of this section, there shall be added to such unpaid installment an amount equal to 10 per centum thereof, which shall be paid at the same time as, but in addition to, such installment, unless notice is filed under subdivi-

sion (d) of this section, or unless such nonpayment is excused by the deputy commissioner after a showing by the employer that owing to conditions over which he had no control such installment could not be paid within the period prescribed for the payment.

(f) Additional compensation for overdue installment payments payable under terms of award

If any compensation, payable under the terms of an award, is not paid within ten days after it becomes due, there shall be added to such unpaid compensation an amount equal to 20 per centum thereof, which shall be paid at the same time as, but in addition to, such compensation, unless review of the compensation order making such award is had as provided in section 921 of this title and an order staying payment has been issued by the Board or court.

(g) Notice of payment; penalty

Within sixteen days after final payment of compensation has been made, the employer shall send to the deputy commissioner a notice, in accordance with a form prescribed by the Secretary, stating that such final payment has been made, the total amount of compensation paid, the name of the employee and of any other person to whom compensation has been paid, the date of the injury or death, and the date to which compensation has been paid. If the employer fails to so notify the deputy commissioner within such time the Secretary shall assess against such employer a civil penalty in the amount of $100.

(h) Investigations, examinations, and hearings for controverted, stopped, or suspended payments

The deputy commissioner (1) may upon his own initiative at any time in a case in which payments are being made without an award, and (2) shall in any case where right to compensation is controverted, or where payments of compensation have been stopped or suspended, upon receipt of notice from any person entitled to compensation, or from the employer, that the right to compensation is controverted, or that payments of compensation have been stopped or suspended, make such investigations, cause such medical examinations to be made, or hold such hearings, and take such further action as he considers will properly protect the rights of all parties.

(i) Deposit by employer

Whenever the deputy commissioner deems it advisable he may require any employer to make a deposit with the Treasurer of the United States to secure the prompt and convenient payment of such compensation, and payments therefrom upon any awards shall be made upon order of the deputy commissioner.

(j) Discharge of employer's liability for compensation

Whenever the deputy commissioner determines that it is in the interest of justice, the liability of the employer for compensation, or any part thereof as determined by the deputy commissioner with the approval of the Secretary, may be discharged by the payment of a lump sum equal to the present value of future compensation payments commuted, computed at 4 per centum true discount compounded annually. The probability of the death of the injured employee or other person entitled to compensation before the expiration of the period during which he is entitled to compensation shall be determined in accordance with the American Experience Table of Mortality, and the probability of the remarriage of the surviving wife shall be determined in accordance with the remarriage tables of the Dutch Royal Insurance Institution. The probability of the happening of any other contingency affecting the amount or duration of the compensation shall be disregarded.

(k) Reimbursement for advance payments

If the employer has made advance payments of compensation, he shall be entitled to be reimbursed out of any unpaid installment or installments of compensation due.

(l) Receipt for payment

An injured employee, or in case of death his dependents or personal representative, shall give receipts for payment of compensation to the employer paying the same and such employer shall produce the same for inspection by the deputy commissioner, whenever required.

(Mar. 4, 1927, ch. 509, § 14, 44 Stat. 1432; May 26, 1934, ch. 354, § 4, 48 Stat. 807; June 25, 1938, ch. 685, § 7, 52 Stat. 1167; June 24, 1948, ch. 623, § 5, 62 Stat. 603; July 26, 1956, ch. 735, § 5, 70 Stat. 655; July 14, 1961, Pub. L. 87-87, § 3, 75 Stat. 203; Oct. 27, 1972, Pub. L. 92-576, §§ 5(e), 15(d), 86 Stat. 1254, 1262.)

AMENDMENTS

1972—Subd. (f). Pub. L. 92-576, § 15(d), substituted "order staying payment has been issued by the Board or court" for "interlocutory injunction staying payments is allowed by the court as provided therein".

Subd. (m). Pub. L. 92-576, § 5(e), repealed subd. (m) limiting aggregate money allowance for an injury under this chapter to $24,000, making the limitation inapplicable to cases of permanent total disability or death, and providing that in applying the limitation there shall not be taken into account any amount payable under section 908(g) of this title for maintenance during rehabilitation or any amount of additional compensation required to be paid under this section for delay or default in the payment of compensation or any amount accruing as interest upon defaulted compensation collectible under section 918 of this title.

1961—Subd. (m). Pub. L. 87-87 increased the limitation on total money allowance as compensation for injury from "$17,280" to "$24,000".

1956—Subd. (m). Act July 26, 1956, provided for maximum money allowance of $17,280 in lieu of total compensation of $11,000, eliminated additional former limit of $10,000 for disabilities compensable under section 908(c)(21) of this title, and added provision excepting from $17,280 limitation, amounts payable under section 908(g) of this title for maintenance during rehabilitation, and amounts payable under this section for delay or default in payment of compensation or interest collectible under section 918 of this title.

1948—Subd. (m). Act June 24, 1948, increased the overall statutory maximum limitation upon compensation for disability from $7,500 to $11,000, and fixed a sublimitation of $10,000 upon that particular compensation for permanent partial disability which is payable when the case is classified as one in which compensation shall be payable under section 908(c)(21) of this title, but neither limitation shall apply for permanent total disability or death.

1938—Subd. (f). Act June 25, 1938, inserted the clause "and an interlocutory injunction staying payments is allowed by the court as provided therein".

1934—Subd. (j). Act May 26, 1934, substituted the phrase "in the interest of justice" for "for the best interests of a person entitled to compensation"; inserted "or any part thereof as determined by the deputy commissioner with the approval of the Commission"; and inserted the provision for determining probability of remarriage.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-576 effective 30 days after Oct. 27, 1972, see section 22 of Pub. L. 92-576, set out as an Effective Date of 1972 Amendment note under section 902 of this title.

EFFECTIVE DATE OF 1961 AMENDMENT

Amendment of subd. (m) by Pub. L. 87-87 effective as to injuries sustained on or after July 14, 1961, see section 4 of Pub. L. 87-87, set out as an Effective Date of 1961 Amendment note under section 906 of this title.

EFFECTIVE DATE OF 1956 AMENDMENT

Amendment of subd. (m) by act July 26, 1956, applicable only with respect to injuries and death occurring on or after July 26, 1956, see section 9 of act July 26, 1956, set out as an Effective Date of 1956 Amendment note under section 906 of this title.

EFFECTIVE DATE OF 1948 AMENDMENT

Amendment by act June 24, 1948, applicable to death or injuries occurring after June 24, 1948, see section 6 of act June 24, 1948, set out as an Effective Date of 1948 Amendment note under section 906 of this title.

REPEALS

Reorg. Plan No. 19 of 1950, § 1, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1271, which was formerly set out in the credit to this section and which transferred the functions of the Federal Security Administrator to the Secretary of Labor, was repealed by Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 662.

Reorg. Plan No. 2 of 1946, § 3, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095, which was formerly set out in the credit to this section and which transferred the functions of the United States Employees' Compensation Commission to the Federal Security Administrator, was repealed by Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 662.

CROSS REFERENCES

Certain approved settlements to be paid in installments, see section 908 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 928 of this title; title 42 section 1702.

§ 915. Invalid agreements

(a) No agreement by an employee to pay any portion of premium paid by his employer to a carrier or to contribute to a benefit fund or department maintained by such employer for the purpose of providing compensation or medical services and supplies as required by this chapter shall be valid, and any employer who makes a deduction for such purpose from the pay of any employee entitled to the benefits of this chapter shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than $1,000.

(b) No agreement by an employee to waive his right to compensation under this chapter shall be valid.

(Mar. 4, 1927, ch. 509, § 15, 44 Stat. 1434.)

CROSS REFERENCES

Settlement of claim, where deputy commissioner determines it is for the best interest of injured employee, notwithstanding provision of subd. (b) of this section, see section 908 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 908 of this title.

§ 916. Assignment and exemption from claims of creditors

No assignment, release, or commutation of compensation or benefits due or payable under this chapter, except as provided by this chapter, shall be valid, and such compensation and benefits shall be exempt from all claims of creditors and from levy, execution, and attachment or other remedy for recovery or collection of a debt, which exemption may not be waived.

(Mar. 4, 1927, ch. 509, § 16, 44 Stat. 1434.)

CROSS REFERENCES

Settlement of claim, where deputy commissioner determines it is for best interest of injured employee, notwithstanding provisions of this section, see section 908 of this title.

FEDERAL RULES OF CIVIL PROCEDURE

Execution, see rule 69, Title 28, Appendix, Judiciary and Judicial Procedure.

Continuation of section, see also note by Advisory Committee under that rule.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 908 of this title.

§ 917. Compensation a lien against assets

(a) Any person entitled to compensation under the provisions of this chapter shall have a lien against the assets of the carrier or employer for such compensation without limit of amount, and shall, upon insolvency, bankruptcy, or reorganization in bankruptcy proceedings of the carrier or employer, or both, be entitled to preference and priority in the distribution of the assets of such carrier or employer, or both.

(b) Where a trust fund which complies with section 186(c) of title 29 established pursuant to a collective-bargaining agreement in effect between an employer and an employee entitled to compensation under this chapter has paid disability benefits to an employee which the employee is legally obligated to repay by reason of his entitlement to compensation under this chapter, the Secretary may authorize a lien on such compensation in favor of the trust fund for the amount of such payments.

(Mar. 4, 1927, ch. 509, § 17, 44 Stat. 1434; June 25, 1938, ch. 685, § 8, 52 Stat. 1167; Oct. 27, 1972, Pub. L. 92-576, § 20(b), 86 Stat. 1264.)

AMENDMENTS

1972—Pub. L. 92-576 designated existing provisions as subd. (a) and added subd. (b).

1938—Act June 25, 1938, substituted present provision for "Compensation shall have the same preference of lien against the assets of the carrier or employer without limit of amount as is now or may hereafter be allowed by law to the claimant for unpaid wages or otherwise".

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-576 effective 30 days after Oct. 27, 1972, see section 22 of Pub. L. 92-576, set out

as an Effective Date of 1972 Amendment note under section 902 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 918 of this title.

§ 918. Collection of defaulted payments; special fund

(a) In case of default by the employer in the payment of compensation due under any award of compensation for a period of thirty days after the compensation is due and payable, the person to whom such compensation is payable may, within one year after such default, make application to the deputy commissioner making the compensation order or[1] a supplementary order declaring the amount of the default. After investigation, notice, and hearing, as provided in section 919 of this title, the deputy commissioner shall make a supplementary order, declaring the amount of the default, which shall be filed in the same manner as the compensation order. In case the payment in default is an installment of the award, the deputy commissioner may, in his discretion, declare the whole of the award as the amount in default. The applicant may file a certified copy of such supplementary order with the clerk of the Federal district court for the judicial district in which the employer has his principal place of business or maintains an office, or for the judicial district in which the injury occurred. In case such principal place of business or office or place where the injury occurred is in the District of Columbia, a copy of such supplementary order may be filed with the clerk of the United States District Court for the District of Columbia. Such supplementary order of the deputy commissioner shall be final, and the court shall, upon the filing of the copy, enter judgment for the amount declared in default by the supplementary order if such supplementary order is in accordance with law. Review of the judgment so entered may be had as in civil suits for damages at common law. Final proceedings to execute the judgment may be had by writ of execution in the form used by the court in suits at common law in actions of assumpsit. No fee shall be required for filing the supplementary order nor for entry of judgment thereon, and the applicant shall not be liable for costs in a proceeding for review of the judgment unless the court shall otherwise direct. The court shall modify such judgment to conform to any later compensation order upon presentation of a certified copy thereof to the court.

(b) In cases where judgment cannot be satisfied by reason of the employer's insolvency or other circumstances precluding payment, the Secretary of Labor may, in his discretion and to the extent he shall determine advisable after consideration of current commitments payable from the special fund established in section 944 of this title, make payment from such fund upon any award made under this chapter, and in addition, provide any necessary medical, surgical, and other treatment required by section 907 of this title in any case of disability where there has been a default in furnishing medical treatment by reason of the insolvency of the employer. Such an employer shall be liable for payment into such fund of the amounts paid therefrom by the Secretary of Labor under this subsection; and for the purpose of enforcing this liability, the Secretary of Labor for the benefit of the fund shall be subrogated to all the rights of the person receiving such payment or benefits, including the right of lien and priority provided for by section 917 of this title, as against the employer and may by a proceeding in the name of the Secretary of Labor under this section or under subsection (c) of section 921 of this title, or both, seek to recover the amount of the default or so much thereof as in the judgment of the Secretary is possible, or the Secretary may settle and compromise any such claim.

(Mar. 4, 1927, ch. 509, § 18, 44 Stat. 1434; June 25, 1936, ch. 804, 49 Stat. 1921; June 25, 1948, ch. 646, § 32(b), 62 Stat. 991; May 24, 1949, ch. 139, § 127, 63 Stat. 107; July 26, 1956, ch. 735, § 6, 70 Stat. 655.)

CODIFICATION

As originally enacted, subsec. (a) contained a reference to the Supreme Court of the District of Columbia. Act June 25, 1936, substituted "the district court of the United States for the District of Columbia" for "the Supreme Court of the District of Columbia", and act June 25, 1948, as amended by act May 24, 1949, substituted "United States District Court for the District of Columbia" for "district court of the United States for the District of Columbia".

AMENDMENTS

1956—Act July 26, 1956, designated existing provisions as subd. (a) and added subd. (b).

CROSS REFERENCES

Employees of nonappropriation fund instrumentalities of armed services, see section 8171 et seq. of Title 5, Government Organization and Employees.

FEDERAL RULES OF CIVIL PROCEDURE

Continuation of section under rule 69, see note by Advisory Committee under rule 69, Title 28, Appendix, Judiciary and Judicial Procedure.

Execution, see rule 69, Title 28, Appendix.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 921, 939, 944 of this title; title 5 section 8171; title 42 section 1653.

§ 919. Procedure in respect of claims

(a) Filing of claim

Subject to the provisions of section 913 of this title a claim for compensation may be filed with the deputy commissioner in accordance with regulations prescribed by the Secretary at any time after the first seven days of disability following any injury, or at any time after death, and the deputy commissioner shall have full power and authority to hear and determine all questions in respect of such claim.

(b) Notice of claim

Within ten days after such claim is filed the deputy commissioner, in accordance with regulations prescribed by the Secretary, shall notify the employer and any other person (other than the claimant), whom the deputy commissioner considers an interested party, that a claim has been filed. Such notice may be served personally upon the employer or other person, or sent to such employer or person by registered mail.

[1] So in original. Probably should read "for".

(c) Investigations; order for hearing; notice; rejection or award

The deputy commissioner shall make or cause to be made such investigations as he considers necessary in respect of the claim, and upon application of any interested party shall order a hearing thereon. If a hearing on such claim is ordered the deputy commissioner shall give the claimant and other interested parties at least ten days' notice of such hearing, served personally upon the claimant and other interested parties or sent to such claimant and other interested parties by registered mail or by certified mail, and shall within twenty days after such hearing is had, by order, reject the claim or make an award in respect of the claim. If no hearing is ordered within twenty days after notice is given as provided in subdivision (b) of this section, the deputy commissioner shall, by order, reject the claim or make an award in respect of the claim.

(d) Provisions governing conduct of hearing; hearing examiners

Notwithstanding any other provisions of this chapter, any hearing held under this chapter shall be conducted in accordance with the provisions of section 554 of title 5. Any such hearing shall be conducted by a hearing examiner qualified under section 3105 of that title. All powers, duties, and responsibilities vested by this chapter, on October 27, 1972, in the deputy commissioners with respect to such hearings shall be vested in such hearing examiners.

(e) Filing and mailing of order rejecting claim or making award

The order rejecting the claim or making the award (referred to in this chapter as a compensation order) shall be filed in the office of the deputy commissioner, and a copy thereof shall be sent by registered mail or by certified mail to the claimant and to the employer at the last known address of each.

(f) Awards after death of employee

An award of compensation for disability may be made after the death of an injured employee.

(g) Transfer of case

At any time after a claim has been filed with him, the deputy commissioner may, with the approval of the Secretary, transfer such case to any other deputy commissioner for the purpose of making investigation, taking testimony, making physical examinations or taking such other necessary action therein as may be directed.

(h) Physical examination of injured employee

An injured employee claiming or entitled to compensation shall submit to such physical examination by a medical officer of the United States or by a duly qualified physician designated or approved by the Secretary as the deputy commissioner may require. The place or places shall be reasonably convenient for the employee. Such physician or physicians as the employee, employer, or carrier may select and pay for may participate in an examination if the employee, employer, or carrier so requests. Proceedings shall be suspended and no compensation be payable for any period during which the employee may refuse to submit to examination.

(Mar. 4, 1927, ch. 509, § 19, 44 Stat. 1435; June 25, 1938, ch. 685, § 9, 52 Stat. 1167; June 11, 1960, Pub. L. 86-507, § 1(30), (31), 74 Stat. 202; Oct. 27, 1972, Pub. L. 92-576, § 14, 86 Stat. 1261.)

AMENDMENTS

1972—Subd. (d). Pub. L. 92-576 substituted provisions for conduct of hearings under section 554 of title 5 by a hearing examiner qualified under section 3105 of title 5 and vesting in hearing examiners the powers, duties, and responsibilities vested in deputy commissioners on Oct. 27, 1972, for former provisions authorizing claimant and employer to present evidence with respect to claims and for representation of a claimant under a written authorization.

1960—Subd. (c). Pub. L. 86-507, § 1(30), inserted "or by certified mail" following "registered mail".

Subd. (e). Pub. L. 86-507, § 1(31), inserted "or by certified mail" following "registered mail".

1938—Subd. (g). Act June 25, 1938, authorized transfer of cases, with administrative approval, at any time after filing of claim for the additional purposes of making investigations and taking other necessary action instead of after issuance of compensation order without anyone's approval.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-576 effective 30 days after Oct. 27, 1972, see section 22 of Pub. L. 92-576, set out as an Effective Date of 1972 Amendment note under section 902 of this title.

REPEALS

Reorg. Plan No. 19 of 1950, § 1, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1271, which was formerly set out in the credit to this section and which transferred the functions of the Federal Security Administrator to the Secretary of Labor, was repealed by Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 662.

Reorg. Plan No. 2 of 1946, § 3, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095, which was formerly set out in the credit to this section and which transferred the functions of the United States Employees' Compensation Commission to the Federal Security Administrator, was repealed by Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 662.

CROSS REFERENCES

Review of compensation orders, see section 921 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 918, 921 of this title; title 30 section 925.

§ 920. Presumptions

In any proceeding for the enforcement of a claim for compensation under this chapter it shall be presumed, in the absence of substantial evidence to the contrary—

(a) That the claim comes within the provisions of this chapter.

(b) That sufficient notice of such claim has been given.

(c) That the injury was not occasioned solely by the intoxication of the injured employee.

(d) That the injury was not occasioned by the willful intention of the injured employee to injure or kill himself or another.

(Mar. 4, 1927, ch. 509, § 20, 44 Stat. 1436.)

CROSS REFERENCES

Intoxication, suicide and homicide as excluding coverage, see section 903 of this title.

§ 921. Review of compensation orders

(a) Effectiveness and finality of orders

A compensation order shall become effective when filed in the office of the deputy commissioner as provided in section 919 of this title, and, unless proceedings for the suspension or setting aside of such order are instituted as provided in subdivision (b) of this section, shall become final at the expiration of the thirtieth day thereafter.

(b) Benefits Review Board; establishment; members; chairman; quorum; voting; questions reviewable; record; conclusiveness of findings; stay of payments; remand

(1) There is hereby established a Benefits Review Board which shall be composed of three members appointed by the Secretary from among individuals who are especially qualified to serve on such Board. The Secretary shall designate one of the members of the Board to serve as chairman.

(2) For the purpose of carrying out its functions under this chapter, two members of the Board shall constitute a quorum and official action can be taken only on the affirmative vote of at least two members.

(3) The Board shall be authorized to hear and determine appeals raising a substantial question of law or fact taken by any party in interest from decisions with respect to claims of employees under this chapter and the extensions thereof. The Board's orders shall be based upon the hearing record. The findings of fact in the decision under review by the Board shall be conclusive if supported by substantial evidence in the record considered as a whole. The payment of the amounts required by an award shall not be stayed pending final decision in any such proceeding unless ordered by the Board. No stay shall be issued unless irreparable injury would otherwise ensue to the employer or carrier.

(4) The Board may, on its own motion or at the request of the Secretary, remand a case to the hearing examiner for further appropriate action. The consent of the parties in interest shall not be a prerequisite to a remand by the Board.

(c) Court of appeals; jurisdiction; persons entitled to review; petition; record; determination and enforcement; service of process; stay of payments

Any person adversely affected or aggrieved by a final order of the Board may obtain a review of that order in the United States court of appeals for the circuit in which the injury occurred, by filing in such court within sixty days following the issuance of such Board order a written petition praying that the order be modified or set aside. A copy of such petition shall be forthwith transmitted by the clerk of the court, to the Board, and to the other parties, and thereupon the Board shall file in the court the record in the proceedings as provided in section 2112 of title 28. Upon such filing, the court shall have jurisdiction of the proceeding and shall have the power to give a decree affirming, modifying, or setting aside, in whole or in part, the order of the Board and enforcing same to the extent that such order is affirmed or modified. The orders, writs, and processes of the court in such proceedings may run, be served, and be returnable anywhere in the United States. The payment of the amounts required by an award shall not be stayed pending final decision in any such proceeding unless ordered by the court. No stay shall be issued unless irreparable injury would otherwise ensue to the employer or carrier. The order of the court allowing any stay shall contain a specific finding, based upon evidence submitted to the court and identified by reference thereto, that irreparable damage would result to the employer, and specifying the nature of the damage.

(d) District court; jurisdiction; enforcement of orders; application of beneficiaries of awards or deputy commissioner; process for compliance with orders

If any employer or his officers or agents fails to comply with a compensation order making an award, that has become final, any beneficiary of such award or the deputy commissioner making the order, may apply for the enforcement of the order to the Federal district court for the judicial district in which the injury occurred (or to the United States District Court for the District of Columbia if the injury occurred in the District). If the court determines that the order was made and served in accordance with law, and that such employer or his officers or agents have failed to comply therewith, the court shall enforce obedience to the order by writ of injunction or by other proper process, mandatory or otherwise, to enjoin upon such person and his officers and agents compliance with the order.

(e) Institution of proceedings for suspension, setting aside, or enforcement of compensation orders

Proceedings for suspending, setting aside, or enforcing a compensation order, whether rejecting a claim or making an award, shall not be instituted otherwise than as provided in this section and section 918 of this title.

(Mar. 4, 1927, ch. 509, § 21, 44 Stat. 1436; June 25, 1936, ch. 804, 49 Stat. 1921; June 25, 1948, ch. 646, § 32(b), 62 Stat. 991; May 24, 1949, ch. 139, § 127, 63 Stat. 107; Oct. 27, 1972, Pub. L. 92-576, § 15(a), (b), 86 Stat. 1261, 1262.)

CODIFICATION

As originally enacted, subsec. (d) contained a reference to the Supreme Court of the District of Columbia. Act June 25, 1936, substituted "the district court of the United States for the District of Columbia" for "the Supreme Court of the District of Columbia", and act June 25, 1948, as amended by act May 24, 1949, substituted "United States District Court for the District of Columbia" for "district court of the United States for the District of Columbia".

AMENDMENTS

1972—Subd. (b). Pub. L. 92-576, § 15(a), added subd. (b). Former provisions of subd. (b) for injunction proceedings to suspend or set aside a compensation order by a party in interest against a deputy commissioner in Federal district court for judicial district where injury occurred superseded by subd. (c) of this section and former provisions of such subd. (b) respecting service of process and stay of payments, except for the procedural requirement of an interlocutory injunction to the court and hearing on at least three days' notice

to the parties in interest and the deputy commissioner, incorporated in subd. (c) of this section.

Subd. (c). Pub. L. 92-576, § 15(a), added subd. (c). Former subd. (c) redesignated (d).

Subds. (d), (e). Pub. L. 92-576, § 15(b), redesignated former subds. (c) and (d) as (d) and (e), respectively.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-576 effective 30 days after Oct. 27, 1972, see section 22 of Pub. L. 92-576, set out as an Effective Date of 1972 Amendment note under section 902 of this title.

CROSS REFERENCES

Penalty for failure to pay award pending review, see section 914 of this title.

FEDERAL RULES OF CIVIL PROCEDURE

Application, see rule 81, Title 28, Appendix, Judiciary and Judicial Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 914, 919, 921a, 939 of this title; title 5 section 8171; title 42 section 1653.

§ 921a. Appearance of attorneys for Secretary, deputy commissioner, or Board

Attorneys appointed by the Secretary shall represent the Secretary, the deputy commissioner, or the Board in any court proceedings under section 921 of this title or other provisions of this chapter except for proceedings in the Supreme Court of the United States.

(May 4, 1928, ch. 502, 45 Stat. 490; June 25, 1948, ch. 646, § 1, 62 Stat. 909; Oct. 27, 1972, Pub. L. 92-576, § 16, 86 Stat. 1262.)

CODIFICATION

Section was not enacted as part of the Longshoremen's and Harbor Workers' Compensation Act which comprises this chapter.

AMENDMENTS

1972—Pub. L. 92-576 substituted provisions for representation of the Secretary, the deputy commissioner, or the Board by attorneys appointed by the Secretary except for proceedings in the Supreme Court, for former provisions requiring the United States attorney in the judicial district in which the case is pending to appear as attorney or counsel on behalf of the Secretary of Labor or his deputy commissioner when either is a party to the case or interested, and to represent such Secretary or deputy in any court in which such case may be carried on appeal.

CHANGE OF NAME

Act June 25, 1948, eff. Sept. 1, 1948, substituted "United States attorney" for "district attorney of the United States". See section 541 of Title 28, Judiciary and Judicial Procedure, and Historical and Revision note thereunder.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-576 effective 30 days after Oct. 27, 1972, see section 22 of Pub. L. 92-576, set out as an Effective Date of 1972 Amendment note under section 902 of this title.

REPEALS

Reorg. Plan No. 19 of 1950, § 1, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1271, which was formerly set out in the credit to this section and which transferred the functions of the Federal Security Administrator to the Secretary of Labor, was repealed by Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 662.

Reorg. Plan No. 2 of 1946, § 3, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095, which was formerly set out in the credit to this section and which transferred the functions of the United States Employees' Compensation Commission to the Federal Security Administrator, was repealed by Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 662.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 941 of this title.

§ 922. Modification of awards

Upon his own initiative, or upon the application of any party in interest, on the ground of a change in conditions or because of a mistake in a determination of fact by the deputy commissioner, the deputy commissioner may, at any time prior to one year after the date of the last payment of compensation, whether or not a compensation order has been issued, or at any time prior to one year after the rejection of a claim, review a compensation case in accordance with the procedure prescribed in respect of claims in section 919 of this title, and in accordance with such section issue a new compensation order which may terminate, continue, reinstate, increase, or decrease such compensation, or award compensation. Such new order shall not affect any compensation previously paid, except that an award increasing the compensation rate may be made effective from the date of the injury, and if any part of the compensation due or to become due is unpaid, an award decreasing the compensation rate may be made effective from the date of the injury, and any payment made prior thereto in excess of such decreased rate shall be deducted from any unpaid compensation, in such manner and by such method as may be determined by the deputy commissioner with the approval of the Secretary.

(Mar. 4, 1927, ch. 509, § 22, 44 Stat. 1437; May 26, 1934, ch. 354, § 5, 48 Stat. 807; June 25, 1938, ch. 685, § 10, 52 Stat. 1167.)

AMENDMENTS

1938—Act June 25, 1938, permitted review of compensation case at any time prior to one year after rejection of claim and authorized award of compensation.

1934—Act May 26, 1934, permitted review based on a mistake in a determination of fact; substituted provision for review of compensation case at any time prior to one year after date of last payment of compensation, whether or not compensation order was issued, for original provision for review at any time during term of award and after compensation order in respect of such award had become final; authorized reinstatement of compensation; and inserted the exception clause.

REPEALS

Reorg. Plan No. 19 of 1950, § 1, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1271, which was formerly set out in the credit to this section and which transferred the functions of the Federal Security Administrator to the Secretary of Labor, was repealed by Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 662.

Reorg. Plan No. 2 of 1946, § 3, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095, which was formerly set out in the credit to this section and which transferred the functions of the United States Employees' Compensation Commission to the Federal Security Administrator, was repealed by Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 662.

§ 923. Procedure before deputy commissioner or Board

(a) In making an investigation or inquiry or conducting a hearing the deputy commissioner or Board shall not be bound by common law or statutory rules of evidence or by technical or formal rules of procedure, except as provided by this chapter; but may make such investigation or inquiry or conduct such hearing in such manner as to best ascertain the rights of the parties. Declarations of a deceased employee concerning the injury in respect of which the investigation or inquiry is being made or the hearing conducted shall be received in evidence and shall, if corroborated by other evidence, be sufficient to establish the injury.

(b) Hearings before a deputy commissioner or Board shall be open to the public and shall be stenographically reported, and the deputy commissioners or Board, subject to the approval of the Secretary, are authorized to contract for the reporting of such hearings. The Secretary shall by regulation provide for the preparation of a record of the hearings and other proceedings before the deputy commissioners or Board.

(Mar. 4, 1927, ch. 509, § 23, 44 Stat. 1437; Oct. 27, 1972, Pub. L. 92-576, § 15(e), 86 Stat. 1262.)

AMENDMENTS

1972—Pub. L. 92-576 inserted references to the Board in subds. (a) and (b).

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-576 effective 30 days after Oct. 27, 1972, see section 22 of Pub. L. 92-576, set out as an Effective Date of 1972 Amendment note under section 902 of this title.

REPEALS

Reorg. Plan No. 19 of 1950, § 1, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1271, which was formerly set out in the credit to this section and which transferred the functions of the Federal Security Administrator to the Secretary of Labor, was repealed by Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 662.

Reorg. Plan No. 2 of 1946, § 3, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095, which was formerly set out in the credit to this section and which transferred the functions of the United States Employees' Compensation Commission to the Federal Security Administrator, was repealed by Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 662.

§ 924. Witnesses

No person shall be required to attend as a witness in any proceeding before a deputy commissioner at a place outside of the State of his residence and more than one hundred miles from his place of residence, unless his lawful mileage and fee for one day's attendance shall be first paid or tendered to him; but the testimony of any witness may be taken by deposition or interrogatories according to the rules of practice of the Federal district court for the judicial district in which the case is pending (or of the United States District Court for the District of Columbia if the case is pending in the District).

(Mar. 4, 1927, ch. 509, § 24, 44 Stat. 1437; June 25, 1936, ch. 804, 49 Stat. 1921; June 25, 1948, ch. 646, § 32(b), 62 Stat. 991; May 24, 1949, ch. 139, § 127, 63 Stat. 107.)

CODIFICATION

As originally enacted, this section contained a reference to the Supreme Court of the District of Columbia. Act June 25, 1936, substituted "the district court of the United States for the District of Columbia" for "the Supreme Court of the District of Columbia", and act June 25, 1948, as amended by act May 24, 1949, substituted "United States District Court for the District of Columbia" for "district court of the United States for the District of Columbia".

FEDERAL RULES OF CIVIL PROCEDURE

Depositions and discovery, see rule 26 et seq. of Title 28, Appendix, Judiciary and Judicial Procedure.

§ 925. Witness fees

Witnesses summoned in a proceeding before a deputy commissioner or whose depositions are taken shall receive the same fees and mileage as witnesses in courts of the United States.

(Mar. 4, 1927, ch. 509, § 25, 44 Stat. 1437.)

CROSS REFERENCES

Per diem and mileage generally, see section 1821 of Title 28, Judiciary and Judicial Procedure.

§ 926. Costs in proceedings brought without reasonable grounds

If the court having jurisdiction of proceedings in respect of any claim or compensation order determines that the proceedings in respect of such claim or order have been instituted or continued without reasonable ground, the costs of such proceedings shall be assessed against the party who has so instituted or continued such proceedings.

(Mar. 4, 1927, ch. 509, § 26, 44 Stat. 1438.)

FEDERAL RULES OF CIVIL PROCEDURE

Continuation of section, see note by Advisory Committee under rule 54, Title 28, Appendix, Judiciary and Judicial Procedure.

Judgment and costs, see rule 54, Title 28, Appendix.

§ 927. Powers of deputy commissioners or Board

(a) The deputy commissioner or Board shall have power to preserve and enforce order during any such proceedings; to issue subpoenas for, to administer oaths to, and to compel the attendance and testimony of witnesses, or the production of books, papers, documents, and other evidence, or the taking of depositions before any designated individual competent to administer oaths; to examine witnesses; and to do all things conformable to law which may be necessary to enable him effiectively[1] to discharge the duties of his office.

(b) If any person in proceedings before a deputy commissioner or Board disobeys or resists any lawful order or process, or misbehaves during a hearing or so near the place thereof as to obstruct the same, or neglects to produce, after having been ordered to do so, any pertinent book, paper, or document, or refuses to appear after having been subpoenaed, or upon appearing refuses to take the oath as a witness, or after having taken the oath refuses to be examined according to law, the deputy commissioner or Board shall certify the facts to the district court having jurisdiction in the place in

[1] So in original. Probably should read "effectively".

which he is sitting (or to the United States District Court for the District of Columbia if he is sitting in such District) which shall thereupon in a summary manner hear the evidence as to the acts complained of, and if the evidence so warrants, punish such person in the same manner and to the same extent as for a contempt committed before the court, or commit such person upon the same conditions as if the doing of the forbidden act had occurred with reference to the process of or in the presence of the court.

(Mar. 4, 1927, ch. 509, § 27, 44 Stat. 1438; June 25, 1936, ch. 804, 49 Stat. 1921; June 25, 1948, ch. 646, § 32(b), 62 Stat. 991; May 24, 1949, ch. 139, § 127, 63 Stat. 107; Oct. 27, 1972, Pub. L. 92-576, § 15(e), 86 Stat. 1262.)

CODIFICATION

As originally enacted, subsec. (b) contained a reference to the Supreme Court of the District of Columbia. Act June 25, 1936, substituted "the district court of the United States for the District of Columbia" for "the Supreme Court of the District of Columbia", and act June 25, 1948, as amended by act May 24, 1949, substituted "United States District Court for the District of Columbia" for "district court of the United States for the District of Columbia".

AMENDMENTS

1972—Pub. L. 92-576 inserted references to the Board in subds. (a) and (b).

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-576 effective 30 days after Oct. 27, 1972, see section 22 of Pub. L. 92-576, set out as an Effective Date of 1972 Amendment note under section 902 of this title.

CROSS REFERENCES

Contempts—
Constituting crimes, see section 402 of Title 18, Crimes and Criminal Procedure.
Power of court, see section 401 of Title 18.

FEDERAL RULES OF CIVIL PROCEDURE

Depositions and discovery, see rule 26 et seq., Title 28, Appendix, Judiciary and Judicial Procedure.
Injunctions, see rule 65, Title 28, Appendix.

§ 928. Fees for services

(a) Attorney's fee; successful prosecution of claim

If the employer or carrier declines to pay any compensation on or before the thirtieth day after receiving written notice of a claim for compensation having been filed from the deputy commissioner, on the ground that there is no liability for compensation within the provisions of this chapter and the person seeking benefits shall thereafter have utilized the services of an attorney at law in the successful prosecution of his claim, there shall be awarded, in addition to the award of compensation, in a compensation order, a reasonable attorney's fee against the employer or carrier in an amount approved by the deputy commissioner, Board, or court, as the case may be, which shall be paid directly by the employer or carrier to the attorney for the claimant in a lump sum after the compensation order becomes final.

(b) Attorney's fee; successful prosecution for additional compensation; independent medical evaluation of disability controversy; restriction of other assessments

If the employer or carrier pays or tenders payment of compensation without an award pursuant to section 914(a) and (b) of this title, and thereafter a controversy develops over the amount of additional compensation, if any, to which the employee may be entitled, the deputy commissioner or Board shall set the matter for an informal conference and following such conference the deputy commissioner or Board shall recommend in writing a disposition of the controversy. If the employer or carrier refuse to accept such written recommendation, within fourteen days after its receipt by them, they shall pay or tender to the employee in writing the additional compensation, if any, to which they believe the employee is entitled. If the employee refuses to accept such payment or tender of compensation, and thereafter utilizes the services of an attorney at law, and if the compensation thereafter awarded is greater than the amount paid or tendered by the employer or carrier, a reasonable attorney's fee based solely upon the difference between the amount awarded and the amount tendered or paid shall be awarded in addition to the amount of compensation. The foregoing sentence shall not apply if the controversy relates to degree or length of disability, and if the employer or carrier offers to submit the case for evaluation by physicians employed or selected by the Secretary, as authorized in section 907(e) of this title and offers to tender an amount of compensation based upon the degree or length of disability found by the independent medical report at such time as an evaluation of disability can be made. If the claimant is successful in review proceedings before the Board or court in any such case an award may be made in favor of the claimant and against the employer or carrier for a reasonable attorney's fee for claimant's counsel in accord with the above provisions. In all other cases any claim for legal services shall not be assessed against the employer or carrier.

(c) Approval; payment; lien

In all cases fees for attorneys representing the claimant shall be approved in the manner herein provided. If any proceedings are had before the Board or any court for review of any action, award, order, or decision, the Board or court may approve an attorney's fee for the work done before it by the attorney for the claimant. An approved attorney's fee, in cases in which the obligation to pay the fee is upon the claimant, may be made a lien upon the compensation due under an award; and the deputy commissioner, Board, or court shall fix in the award approving the fee, such lien and manner of payment.

(d) Costs; witnesses' fees and mileage; prohibition against diminution of compensation to claimant

In cases where an attorney's fee is awarded against an employer or carrier there may be further assessed against such employer or carrier as costs, fees and mileage for necessary witnesses attending the hearing at the instance of claimant. Both the necessity for the witness

and the reasonableness of the fees of expert witnesses must be approved by the hearing officer, the Board, or the court, as the case may be. The amounts awarded against an employer or carrier as attorney's fees, costs, fees and mileage for witnesses shall not in any respect affect or diminish the compensation payable under this chapter.

(e) Unapproved fees; solicitation; penalty

Any person who receives any fees, other consideration, or any gratuity on account of services rendered as a representative of a claimant, unless such consideration or gratuity is approved by the deputy commissioner, Board, or court, or who makes it a business to solicit employment for a lawyer, or for himself in respect of any claim or award for compensation, shall upon conviction thereof, for each offense be punished by a fine of not more than $1,000 or by imprisonment for not more than one year, or by both such fine and imprisonment.

(Mar. 4, 1927, ch. 509, § 28, 44 Stat. 1438; Oct. 27, 1972, Pub. L. 92-576, § 13, 86 Stat. 1259.)

AMENDMENTS

1972—Subd. (a). Pub. L. 92-576 substituted provisions respecting payment of attorney's fee for successful prosecution of claim for former provisions respecting approval by deputy commissioner or court of claims for legal services or for any other services rendered in respect of a claim or award for compensation and for lien upon the compensation in the manner and to the extent fixed by the deputy commissioner or the court, now covered in subd. (c) of this section.

Subd. (b). Pub. L. 92-576 added subd. (b). Former subd. (b) redesignated (e).

Subd. (c). Pub. L. 92-576 added subd. (c).

Subd. (d). Pub. L. 92-576 added subd. (d).

Subd. (e). Pub. L. 92-576 redesignated former subd. (b) as (e), deleted item (1) and (2) designations preceding "who", substituted "services rendered as a representative of a claimant" for "services so rendered", and included approval by the Board.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-576 effective 30 days after Oct. 27, 1972, see section 22 of Pub. L. 92-576, set out as an Effective Date of 1972 Amendment note under section 902 of this title.

CROSS REFERENCES

Felony and misdemeanor defined, see section 1 of Title 18, Crimes and Criminal Procedure.

§ 929. Record of injury or death

Every employer shall keep a record in respect of any injury to an employee. Such record shall contain such information of disease, other disability, or death in respect of such injury as the Secretary may by regulation require, and shall be available to inspection by the Secretary or by any State authority at such times and under such conditions as the Secretary may by regulation prescribe.

(Mar. 4, 1927, ch. 509, § 29, 44 Stat. 1438.)

REPEALS

Reorg. Plan No. 19 of 1950, § 1, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1271, which was formerly set out in the credit to this section and which transferred the functions of the Federal Security Administrator to the Secretary of Labor, was repealed by Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 662.

Reorg. Plan No. 2 of 1946, § 3, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095, which was formerly set out in the credit to this section and which transferred the functions of the United States Employees' Compensation Commission to the Federal Security Administrator, was repealed by Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 662.

CROSS REFERENCES

Investigations by Secretary, access of State agency to records, see section 941 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 30 section 932.

§ 930. Reports to Secretary

(a) Time for sending; contents; copy to deputy commissioner

Within ten days from the date of any injury or death or from the date that the employer has knowledge of a disease or infection in respect of such injury, the employer shall send to the Secretary a report setting forth (1) the name, address, and business of the employer; (2) the name, address, and occupation of the employee; (3) the cause and nature of the injury or death; (4) the year, month, day, and hour when and the particular locality where the injury or death occurred; and (5) such other information as the Secretary may require. A copy of such report shall be sent at the same time to the deputy commissioner in the compensation district in which the injury occurred.

(b) Additional reports

Additional reports in respect of such injury and of the condition of such employee shall be sent by the employer to the Secretary and to such deputy commissioner at such times and in such manner as the Secretary may prescribe.

(c) Use as evidence

Any report provided for in subdivision (a) or (b) of this section shall not be evidence of any fact stated in such report in any proceeding in respect of such injury or death on account of which the report is made.

(d) Compliance by mailing

The mailing of any such report and copy in a stamped envelope, within the time prescribed in subdivisions (a) or (b) of this section, to the Secretary and deputy commissioner, respectively, shall be a compliance with this section.

(e) Penalty for failure or refusal to send report

Any employer who fails or refuses to send any report required of him by this section shall be subject to a civil penalty not to exceed $500 for each such failure or refusal.

(f) Tolling provision

Where the employer or the carrier has been given notice, or the employer (or his agent in charge of the business in the place where the injury occurred) or the carrier has knowledge, of any injury or death of an employee and fails, neglects, or refuses to file report thereof as required by the provisions of subdivision (a) of this section, the limitations in subdivision (a) of section 913 of this title shall not begin to run against the claim of the injured employee or his dependents entitled to compensation, or in favor of either the employer or the carrier, until such report shall have been furnished as required by the provisions of subdivision (a) of this section.

(Mar. 4, 1927, ch. 509, § 30, 44 Stat. 1439; June 25, 1938, ch. 685, § 11, 52 Stat. 1167.)

AMENDMENTS

1938—Subd. (f). Act June 25, 1938, added subd. (f).

REPEALS

Reorg. Plan No. 19 of 1950, § 1, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1271, which was formerly set out in the credit to this section and which transferred the functions of the Federal Security Administrator to the Secretary of Labor, was repealed by Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 662.

Reorg. Plan No. 2 of 1946, § 3, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095, which was formerly set out in the credit to this section and which transferred the functions of the United States Employees' Compensation Commission to the Federal Security Administrator, was repealed by Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 662.

CROSS REFERENCES

Medical or surgical treatment, physician's timely report prerequisite to valid claim, see section 907 of this title.

Notice of injury or death to deputy commissioner, see section 912 of this title.

Time for filing claims for compensation, see section 913 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 30 section 932.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 36-438 of the District of Columbia Code.

§ 931. Penalty for misrepresentation

Any person who willfully makes any false or misleading statement or representation for the purpose of obtaining any benefit or payment under this chapter shall be guilty of a misdemeanor and on conviction thereof shall be punished by a fine of not to exceed $1,000 or by imprisonment of not to exceed one year, or by both such fine and imprisonment.

(Mar. 4, 1927, ch. 509, § 31, 44 Stat. 1439.)

CROSS REFERENCES

Felony and misdemeanor defined, see section 1 of Title 18, Crimes and Criminal Procedure.

§ 932. Security for compensation

(a) Every employer shall secure the payment of compensation under this chapter—

(1) By insuring and keeping insured the payment of such compensation with any stock company or mutual company or association, or with any other person or fund, while such person or fund is authorized (A) under the laws of the United States or of any State, to insure workmen's compensation, and (B) by the Secretary, to insure payment of compensation under this chapter; or

(2) By furnishing satisfactory proof to the Secretary of his financial ability to pay such compensation and receiving an authorization from the Secretary to pay such compensation directly. The Secretary may, as a condition to such authorization, require such employer to deposit in a depository designated by the Secretary either an indemnity bond or securities (at the option of the employer) of a kind and in an amount determined by the Secretary, and subject to such conditions as the Secretary may prescribe, which shall include authorization to the Secretary in case of default to sell any such securities sufficient to pay compensation awards or to bring suit upon such bonds, to procure prompt payment of compensation under this chapter. Any employer securing compensation in accordance with the provisions of this paragraph shall be known as a self-insurer.

(b) In granting authorization to any carrier to insure payment of compensation under this chapter the Secretary may take into consideration the recommendation of any State authority having supervision over carriers or over workmen's compensation, and may authorize any carrier to insure the payment of compensation under this chapter in a limited territory. Any marine protection and indemnity mutual insurance corporation or association, authorized to write insurance against liability for loss or damage from personal injury and death, and for other losses and damages, incidental to or in respect of the ownership, operation, or chartering of vessels on a mutual assessment plan, shall be deemed a qualified carrier to insure compensation under this chapter. The Secretary may suspend or revoke any such authorization for good cause shown after a hearing at which the carrier shall be entitled to be heard in person or by counsel and to present evidence. No suspension or revocation shall affect the liability of any carrier already incurred.

(Mar. 4, 1927, ch. 509, § 32, 44 Stat. 1439.)

REPEALS

Reorg. Plan No. 19 of 1950, § 1, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1271, which was formerly set out in the credit to this section and which transferred the functions of the Federal Security Administrator to the Secretary of Labor, was repealed by Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 662.

Reorg. Plan No. 2 of 1946, § 3, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095, which was formerly set out in the credit to this section and which transferred the functions of the United States Employees' Compensation Commission to the Federal Security Administrator, was repealed by Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 662.

CROSS REFERENCES

Carrier defined, see section 902 of this title.

Penalty for failure to secure payment of compensation, see section 938 of this title.

§ 933. Compensation for injuries where third persons are liable

(a) Election of remedies

If on account of a disability or death for which compensation is payable under this chapter the person entitled to such compensation determines that some person other than the employer or a person or persons in his employ is liable in damages, he need not elect whether to receive such compensation or to recover damages against such third person.

(b) Acceptance of compensation operating as assignment

Acceptance of such compensation under an award in a compensation order filed by the deputy commissioner or Board shall operate as an assignment to the employer of all right of

the person entitled to compensation to recover damages against such third person unless such person shall commence an action against such third person within six months after such award.

(c) Payment into section 944 fund operating as assignment

The payment of such compensation into the fund established in section 944 of this title shall operate as an assignment to the employer of all right of the legal representative of the deceased (hereinafter referred to as "representative") to recover damages against such third person.

(d) Institution of proceedings or compromise by assignee

Such employer on account of such assignment may either institute proceedings for the recovery of such damages or may compromise with such third person either without or after instituting such proceeding.

(e) Recoveries by assignee

Any amount recovered by such employer on account of such assignment, whether or not as the result of a compromise, shall be distributed as follows:

(1) The employer shall retain an amount equal to—

(A) the expenses incurred by him in respect to such proceedings or compromise (including a reasonable attorney's fee as determined by the deputy commissioner or Board);

(B) the cost of all benefits actually furnished by him to the employee under section 907 of this title;

(C) all amounts paid as compensation;

(D) the present value of all amounts thereafter payable as compensation, such present value to be computed in accordance with a schedule prepared by the Secretary, and the present value of the cost of all benefits thereafter to be furnished under section 907 of this title, to be estimated by the deputy commissioner, and the amounts so computed and estimated to be retained by the employer as a trust fund to pay such compensation and the cost of such benefits as they become due, and to pay any sum finally remaining in excess thereof to the person entitled to compensation or to the representative; and

(2) The employer shall pay any excess to the person entitled to compensation or to the representative, less one-fifth of such excess which shall belong to the employer.

(f) Institution of proceedings by person entitled to compensation

If the person entitled to compensation institutes proceedings within the period prescribed in subdivision (b) of this section the employer shall be required to pay as compensation under this chapter a sum equal to the excess of the amount which the Secretary determines is payable on account of such injury or death over the amount recovered against such third person.

(g) Compromise obtained by person entitled to compensation

If compromise with such third person is made by the person entitled to compensation or such representative of an amount less than the compensation to which such person or representative would be entitled to under this chapter the employer shall be liable for compensation as determined in subdivision (f) of this section only if the written approval of such compromise is obtained from the employer and its insurance carrier by the person entitled to compensation or such representative at the time of or prior to such compromise on a form provided by the Secretary and filed in the office of the deputy commissioner having jurisdiction of such injury or death within thirty days after such compromise is made.

(h) Subrogation

Where the employer is insured and the insurance carrier has assumed the payment of the compensation, the insurance carrier shall be subrogated to all the rights of the employer under this section.

(i) Right to compensation as exclusive remedy

The right to compensation or benefits under this chapter shall be the exclusive remedy to an employee when he is injured, or to his eligible survivors or legal representatives if he is killed, by the negligence or wrong of any other person or persons in the same employ: *Provided,* That this provision shall not affect the liability of a person other than an officer or employee of the employer.

(Mar. 4, 1927, ch. 509, § 33, 44 Stat. 1440; June 25, 1938, ch. 685, §§ 12, 13, 52 Stat. 1168; Aug. 18, 1959, Pub. L. 86-171, 73 Stat. 391; Oct. 27, 1972, Pub. L. 92-576, § 15(f)-(h), 86 Stat. 1262.)

AMENDMENTS

1972—Subd. (b). Pub. L. 92-576, § 15(f), inserted "or Board" after "deputy commissioner".

Subd. (e)(1)(A). Pub. L. 92-576, § 15(g), inserted "or Board" after "deputy commissioner".

Subd. (g). Pub. L. 92-576, § 15(h), substituted "if the written approval of such compromise is obtained from the employer and its insurance carrier by the person entitled to compensation or such representative at the time of or prior to such compromise on a form provided by the Secretary and filed in the office of the deputy commissioner having jurisdiction of such injury or death within thirty days after such compromise is made" for "if such compromise is made with his written approval".

1959—Subd. (a). Pub. L. 86-171 inserted "or a person or persons in his employ" following "employer" and substituted "he need not elect whether" for "he may elect, by giving notice to the deputy commissioner in such manner as the Secretary may provide,".

Subd. (b). Pub. L. 86-171 added the words "unless such person shall commence an action against such third person within six months after such award".

Subd. (c). Pub. L. 86-171 deleted the clause", whether or not the representative has notified the deputy commissioner of his election" following "third person".

Subd. (d). Pub. L. 86-171 reenacted subd. (d) without change.

Subd. (e). Pub. L. 86-171 substituted "Secretary" for "Commission" in par. (1)(D) and added in par. (2) the words "less one-fifth of such excess which shall belong to the employer".

Subd. (f). Pub. L. 86-171 deleted "or the representative elects to recover damages against such third person and notifies the Secretary of his election and" preceding "institutes" and substituted "subdivision (b) of this section" for "section 913 of this title" and "Secretary" for "Commission".

Subd. (g). Pub. L. 86-171 corrected reference to "subdivision (e)" to read "subdivision (f)".

Subd. (h). Pub. L. 86-171 redesignated former subd. (i) as (h), and eliminated former subd. (h), that permitted the deputy commissioner to make an election for a minor or to authorize the parent or guardian to make the election.

Subd. (i). Pub. L. 86-171 added subd. (i) and redesignated former subd. (i) as (h).

1938—Subd. (b). Act June 25, 1938, § 12, inserted the words "under an award in a compensation order filed by the deputy commissioner" and deleted at the end of the sentence the clause ", whether or not the person entitled to compensation has notified the deputy commissioner of his election".

Subd. (e). Act June 25, 1938, § 12, redesignated par. (1)(C) as par. (1)(C) and (D) and included in said par. (1)(D) the present value of the cost of benefits furnished.

Subd. (i). Act June 25, 1938, § 13, added subd. (i).

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-576 effective 30 days after Oct. 27, 1972, see section 22 of Pub. L. 92-576, set out as an Effective Date of 1972 Amendment note under section 902 of this title.

REPEALS

Reorg. Plan No. 19 of 1950, § 1, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1271, which was formerly set out in the credit to this section and which transferred the functions of the Federal Security Administrator to the Secretary of Labor, was repealed by Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 662.

Reorg. Plan No. 2 of 1946, § 3, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095, which was formerly set out in the credit to this section and which transferred the functions of the United States Employees' Compensation Commission to the Federal Security Administrator, was repealed by Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 662.

CROSS REFERENCES

Third party tort liability to United States for hospital and medical care, see section 2651 et seq of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 905, 907 of this title; title 30 section 932.

§ 934. Compensation notice

Every employer who has secured compensation under the provisions of this chapter shall keep posted in a conspicuous place or places in and about his place or places of business typewritten or printed notices, in accordance with a form prescribed by the Secretary, stating that such employer has secured the payment of compensation in accordance with the provisions of this chapter. Such notices shall contain the name and address of the carrier, if any, with whom the employer has secured payment of compensation and the date of the expiration of the policy.

(Mar. 4, 1927, ch. 509, § 34, 44 Stat. 1441.)

REPEALS

Reorg. Plan No. 19 of 1950, § 1, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1271, which was formerly set out in the credit to this section and which transferred the functions of the Federal Security Administrator to the Secretary of Labor, was repealed by Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 662.

Reorg. Plan No. 2 of 1946, § 3, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095, which was formerly set out in the credit to this section and which transferred the functions of the United States Employees' Compensation Commission to the Federal Security Administrator, was repealed by Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 662.

§ 935. Substitution of carrier for employer

In any case where the employer is not a self-insurer, in order that the liability for compensation imposed by this chapter may be most effectively discharged by the employer, and in order that the administration of this chapter in respect of such liability may be facilitated, the Secretary shall by regulation provide for the discharge, by the carrier for such employer, of such obligations and duties of the employer in respect to such liability, imposed by this chapter upon the employer, as it considers proper in order to effectuate the provisions of this chapter. For such purposes (1) notice to or knowledge of an employer of the occurrence of the injury shall be notice to or knowledge of the carrier, (2) jurisdiction of the employer by a deputy commissioner, the Board, or the Secretary, or any court under this chapter shall be jurisdiction of the carrier, and (3) any requirement by a deputy commissioner, the Board, or the Secretary, or any court under any compensation order, finding, or decision shall be binding upon the carrier in the same manner and to the same extent as upon the employer.

(Mar. 4, 1927, ch. 509, § 35, 44 Stat. 1441; Oct. 27, 1972, Pub. L. 92-576, § 15(i), 86 Stat. 1262.)

AMENDMENTS

1972—Pub. L. 92-576 inserted reference to the Board in items (2) and (3).

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-576 effective 30 days after Oct. 27, 1972, see section 22 of Pub. L. 92-576, set out as an Effective Date of 1972 Amendment note under section 902 of this title.

REPEALS

Reorg. Plan No. 19 of 1950, § 1, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1271, which was formerly set out in the credit to this section and which transferred the functions of the Federal Security Administrator to the Secretary of Labor, was repealed by Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 662.

Reorg. Plan No. 2 of 1946, § 3, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095, which was formerly set out in the credit to this section and which transferred the functions of the United States Employees' Compensation Commission to the Federal Security Administrator, was repealed by Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 662.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 936 of this title.

§ 936. Insurance policies

(a) Every policy or contract of insurance issued under authority of this chapter shall contain (1) a provision to carry out the provisions of section 935 of this title, and (2) a provision that insolvency or bankruptcy of the employer and/or discharge therein shall not relieve the carrier from payment of compensation for disability or death sustained by an employee during the life of such policy or contract.

(b) No contract or policy of insurance issued by a carrier under this chapter shall be canceled prior to the date specified in such contract or policy for its expiration until at least thirty days have elapsed after a notice of can-

cellation has been sent to the deputy commissioner and to the employer in accordance with the provisions of subdivision (c) of section 912 of this title.

(Mar. 4, 1927, ch. 509, § 36, 44 Stat. 1441.)

§ 937. Certificate of compliance with chapter

No stevedoring firm shall be employed in any compensation district by a vessel or by hull owners until it presents to such vessel or hull owners a certificate issued by a deputy commissioner assigned to such district that it has complied with the provisions of this chapter requiring the securing of compensation to its employees. Any person violating the provisions of this section shall be punished by a fine of not more than $1,000, or by imprisonment for not more than one year, or by both such fine and imprisonment.

(Mar. 4, 1927, ch. 509, § 37, 44 Stat. 1442.)

Cross References

Felony and misdemeanor defined, see section 1 of Title 18, Crimes and Criminal Procedure.

Section Referred to in Other Sections

This section is referred to in title 30 section 932.

§ 938. Penalties

(a) Failure to secure payment of compensation

Any employer required to secure the payment of compensation under this chapter who fails to secure such compensation shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than $1,000, or by imprisonment for not more than one year, or by both such fine and imprisonment; and in any case where such employer is a corporation, the president, secretary, and treasurer thereof shall be also severally liable to such fine or imprisonment as herein provided for the failure of such corporation to secure the payment of compensation; and such president, secretary, and treasurer shall be severally personally liable, jointly with such corporation, for any compensation or other benefit which may accrue under the said chapter in respect to any injury which may occur to any employee of such corporation while it shall so fail to secure the payment of compensation as required by section 932 of this title.

(b) Avoiding payment of compensation

Any employer who knowingly transfers, sells, encumbers, assigns, or in any manner disposes of, conceals, secretes, or destroys any property belonging to such employer, after one of his employees has been injured within the purview of this chapter, and with intent to avoid the payment of compensation under this chapter to such employee or his dependents, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than $1,000, or by imprisonment for not more than one year, or by both such fine and imprisonment; and in any case where such employer is a corporation, the president, secretary, and treasurer thereof shall be also severally liable to such penalty of imprisonment as well as jointly liable with such corporation for such fine.

(c) Effect on other liability of employer

This section shall not affect any other liability of the employer under this chapter.

(Mar. 4, 1927, ch. 509, § 38, 44 Stat. 1442; June 25, 1938, ch. 685, § 14, 52 Stat. 1168.)

Amendments

1938—Act June 25, 1938, designated first sentence of original paragraph as subd. (a) and added thereto provisions respecting liability of corporate officers; added subd. (b); and designated second sentence of original paragraph as subd. (c).

Cross References

Felony and misdemeanor defined, see section 1 of Title 18, Crimes and Criminal Procedure.

Section Referred to in Other Sections

This section is referred to in title 30 section 932.

§ 939. Administration by Secretary

(a) Prescribing rules and regulations; appointing and fixing compensation of employees; making expenditures

Except as otherwise specifically provided, the Secretary shall administer the provisions of this chapter, and for such purpose the Secretary is authorized (1) to make such rules and regulations; (2) to appoint and fix the compensation of such temporary technical assistants and medical advisers, and, subject to the provisions of the civil service laws, to appoint, and, in accordance with chapter 51 and subchapter III of chapter 53 of title 5, to fix the compensation of such deputy commissioners (except deputy commissioners appointed under subdivision (a) of section 940 of this title) and other officers and employees; and (3) to make such expenditures (including expenditures for personal services and rent at the seat of government and elsewhere, for law books, books of reference, periodicals, and for printing and binding) as may be necessary in the administration of this chapter. All expenditures of the Secretary in the administration of this chapter shall be allowed and paid as provided in section 945 of this title upon the presentation of itemized vouchers therefor approved by the Secretary.

(b) Establishing compensation districts

The Secretary shall establish compensation districts, to include the high seas and the areas within the United States to which this chapter applies, and shall assign to each such district one or more deputy commissioners, as the Secretary deems advisable. Judicial proceedings under sections 918 and 921 of this title in respect of any injury or death occurring on the high seas shall be instituted in the district court within whose territorial jurisdiction is located the office of the deputy commissioner having jurisdiction in respect of such injury or death (or in the United States District Court for the District of Columbia if such office is located in such District).

(c) Furnishing information and assistance; directing vocational rehabilitation

(1) The Secretary shall, upon request, provide persons covered by this chapter with information and assistance relating to the chapter's coverage and compensation and the procedures

for obtaining such compensation and including assistance in processing a claim. The Secretary may, upon request, provide persons covered by this chapter with legal assistance in processing a claim. The Secretary shall also provide employees receiving compensation information on medical, manpower, and vocational rehabilitation services and assist such employees in obtaining the best such services available.

(2) The Secretary shall direct the vocational rehabilitation of permanently disabled employees and shall arrange with the appropriate public or private agencies in States or Territories, possessions, or the District of Columbia for such rehabilitation. The Secretary may in his discretion furnish such prosthetic appliances or other apparatus made necessary by an injury upon which an award has been made under this chapter to render a disabled employee fit to engage in a remunerative occupation. Where necessary rehabilitation services are not available otherwise, the Secretary of Labor may, in his discretion, use the fund provided for in section 944 of this title in such amounts as may be necessary to procure such services, including necessary prosthetic appliance or other apparatus. This fund shall also be available in such amounts as may be authorized in annual appropriations for the Department of Labor for the costs of administering this subsection.

(Mar. 4, 1927, ch. 509, § 39, 44 Stat. 1442; June 25, 1936, ch. 804, 49 Stat. 1921; June 25, 1948, ch. 646, § 32(b), 62 Stat. 991; May 24, 1949, ch. 139, § 127, 63 Stat. 107; Oct. 28, 1949, ch. 782, title XI, § 1106(a), 63 Stat. 972; July 26, 1956, ch. 735, § 7, 70 Stat. 656; Oct. 27, 1972, Pub. L. 92-576, § 17, 86 Stat. 1262.)

REFERENCES IN TEXT

The civil service laws, referred to in subd. (a), are set forth in Title 5, Government Organization and Employees. See, particularly, section 3301 et seq. of that title.

CODIFICATION

Former second sentence of subd. (c), providing that the Federal Board for Vocational Education should cooperate with the Employees' Compensation Commission in such educational work has been omitted. The functions of the Board were transferred to the Department of Interior by Ex. Ord. No. 6166, § 15, June 10, 1933, and then to the Federal Security Agency by Reorg. Plan No. 1 of 1939, §§ 201, 204, eff. July 1, 1939, 4 F.R. 2728, 53 Stat. 1424. The Commission was abolished and its functions transferred to the Federal Security Administrator and the Federal Board for Vocational Education was abolished by Reorg. Plan No. 2 of 1946, former sections 3 and 8, respectively, set out in the Appendix to Title 5, Government Organization and Employees.

In subsec. (a) "chapter 51 and subchapter III of chapter 53 of title 5" was substituted for "the Classification Act of 1949, as amended" on authority of section 7(b) of Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 631, section 1 of which enacted Title 5, Government Organization and Employees.

As originally enacted, subsec. (b) contained a reference to the Supreme Court of the District of Columbia. Act June 25, 1936, substituted "the district court of the United States for the District of Columbia" for "the Supreme Court of the District of Columbia", and act June 25, 1948, as amended by act May 24, 1949, substituted "United States District Court for the District of Columbia" for "district court of the United States for the District of Columbia".

AMENDMENTS

1972—Subd. (c). Pub. L. 92-576 added par. (1) and redesignated former subd. (c) as par. (2).

1956—Subd. (c). Act July 26, 1956, substituted "rehabilitation" for "education" at the end of the first sentence, and substituted last two sentences, relating to use of special fund where necessary rehabilitation services are not available, and availability of fund in amounts authorized annually for the Department of Labor for former sentence which provided that "If any surplus is left in any fiscal year in the fund provided for in section 944 of this title, such surplus may be used in subsequent fiscal years for the purposes of administration and investigation."

1949—Subd. (a). Act Oct. 28, 1949, substituted the "Classification Act of 1949" for the "Classification Act of 1923".

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-576 effective 30 days after Oct. 27, 1972, see section 22 of Pub. L. 92-576, set out as an Effective Date of 1972 Amendment note under section 902 of this title.

REPEALS

Act Oct. 28, 1949, ch. 782, title XI, § 1106(a), 63 Stat. 972, set out in the credit of this section, was repealed (subject to a savings clause) by Pub. L. 89-554, Sept. 6, 1966, § 8, 80 Stat. 632, 655.

Reorg. Plan No. 19 of 1950, § 1, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1271, which was formerly set out in the credit to this section and which transferred the functions of the Federal Security Administrator to the Secretary of Labor, was repealed by Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 662.

Reorg. Plan No. 2 of 1946, § 3, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095, which was formerly set out in the credit to this section and which transferred the functions of the United States Employees' Compensation Commission to the Federal Security Administrator, was repealed by Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 662.

CROSS REFERENCES

Employees of nonappropriation fund instrumentalities of armed services, see section 8171 et seq. of Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 944 of this title; title 5 sections 7151, 8171.

§ 940. Deputy commissioners

(a) Appointment; use of personnel and facilities of boards, commissions, or other agencies; expenses and salaries

The Secretary may appoint as deputy commissioners any member of any board, commission, or other agency of a State to act as deputy commissioner for any compensation district or part thereof in such State, and may make arrangements with such board, commission, or other agency for the use of the personnel and facilities thereof in the administration of this chapter. The Secretary may make such arrangements as may be deemed advisable by him for the payment of expenses of such board, commission, or other agency, incurred in the administration of this chapter pursuant to this section, and for the payment of salaries to such board, commission, or other agency, or the members thereof, and may pay any amounts agreed upon to the proper officers of the State, upon vouchers approved by the Secretary.

(b) Appointment in Territories and District of Columbia; compensation

In any Territory of the United States or in the District of Columbia a person holding an office under the United States may be appointed deputy commissioner and for services rendered as deputy commissioner may be paid compensation, in addition to that he is receiving from the United States, in an amount fixed by the Secretary in accordance with chapter 51 and subchapter III of chapter 53 of title 5.

(c) Transfers to other districts; temporary details

Deputy commissioners (except deputy commissioners appointed under subdivision (a) of this section) may be transferred from one compensation district to another and may be temporarily detailed from one compensation district for service in another in the discretion of the Secretary.

(d) Maintaining offices

Each deputy commissioner shall maintain and keep open during reasonable business hours an office, at a place designated by the Secretary, for the transaction of business under this chapter, at which office he shall keep his official records and papers. Such office shall be furnished and equipped by the Secretary, who shall also furnish the deputy commissioner with all necessary clerical and other assistants, records, books, blanks, and supplies. Wherever practicable such office shall be located in a building owned or leased by the United States; otherwise the Secretary shall rent suitable quarters.

(e) Records and papers

If any deputy commissioner is removed from office, or for any reason ceases to act as such deputy commissioner, all of his official records and papers and office equipment shall be transferred to his successor in office or, if there be no successor, then to the Secretary or to a deputy commissioner designated by the Secretary.

(f) Conflict of interest

Neither a deputy commissioner or Board member nor any business associate of a deputy commissioner or Board member shall appear as attorney in any proceeding under this chapter, and no deputy commissioner or Board member shall act in any such case in which he is interested, or when he is employed by any party in interest or related to any party in interest by consanguinity or affinity within the third degree, as determined by the common law.

(Mar. 4, 1927, ch. 509, § 40, 44 Stat. 1443; Oct. 28, 1949, ch. 782, title XI, § 1106(a), 63 Stat. 972; Oct. 27, 1972, Pub. L. 92-576, § 15(j), 86 Stat. 1262.)

CODIFICATION

In subsec. (b) "chapter 51 and subchapter III of chapter 53 of title 5" was substituted for "the Classification Act of 1949, as amended" on authority of section 7(b) of Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 631, section 1 of which enacted Title 5, Government Organization and Employees.

AMENDMENTS

1972—Subd. (f). Pub. L. 92-576 inserted references to Board member in three instances.

1949—Subd. (b). Act Oct. 28, 1949, substituted the "Classification Act of 1949" for the "Classification Act of 1923".

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-576 effective 30 days after Oct. 27, 1972, see section 22 of Pub. L. 92-576, set out as an Effective Date of 1972 Amendment note under section 902 of this title.

REPEALS

Act Oct. 28, 1949, ch. 782, title XI, § 1106(a), 63 Stat. 972, set out in the credit of this section, was repealed (subject to a savings clause) by Pub. L. 89-554, Sept. 6, 1966, § 8, 80 Stat. 632, 655.

Reorg. Plan No. 19 of 1950, § 1, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1271, which was formerly set out in the credit to this section and which transferred the functions of the Federal Security Administrator to the Secretary of Labor, was repealed by Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 662.

Reorg. Plan No. 2 of 1946, § 3, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095, which was formerly set out in the credit to this section and which transferred the functions of the United States Employees' Compensation Commission to the Federal Security Administrator, was repealed by Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 662.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 939 of this title.

§ 941. Safety rules and regulations

(a) Safe place of employment; installation of safety devices and safeguards

Every employer shall furnish and maintain employment and places of employment which shall be reasonably safe for his employees in all employments covered by this chapter and shall install, furnish, maintain, and use such devices and safeguards with particular reference to equipment used by and working conditions established by such employers as the Secretary may determine by regulation or order to be reasonably necessary to protect the life, health, and safety of such employees, and to render safe such employment and places of employment, and to prevent injury to his employees. However, the Secretary may not make determinations by regulation or order under this section as to matters within the scope of title 52 of the Revised Statutes and Acts supplementary or amendatory thereto, the Act of June 15, 1917 (ch. 30, 40 Stat. 220), as amended, or section 1333(e) of title 43.

(b) Studies and investigations by Secretary

The Secretary, in enforcing and administering the provisions of this section, is authorized in addition to such other powers and duties as are conferred upon him—

(1) to make studies and investigations with respect to safety provisions and the causes and prevention of injuries in employments covered by this chapter and from time to time make to Congress such recommendations as he may deem proper as to the best means of preventing such injuries, and in making such studies and investigations to cooperate with any agency of the United States or with any State agency engaged in similar work;

(2) to utilize the services of any agency of the United States or any State agency engaged in similar work (with the consent of

such agency) in connection with the administration of this section;

(3) to promote uniformity in safety standards in employments covered by this chapter through cooperative action with any agency of the United States or with any State agency engaged in similar work;

(4) to provide for the establishment and supervision of programs for the education and training of employers and employees in the recognition, avoidance, and prevention of unsafe working conditions in employments covered by this chapter, and to consult with and advise employers as to the best means of preventing injuries;

(5) to hold such hearings, issue such orders, and make such decisions, based upon findings of fact, as are deemed to be necessary to enforce the provisions of this section, and for such purposes the Secretary and the district courts shall have the authority and jurisdiction provided by section 39 of title 41, and the Secretary shall be represented in any court proceedings as provided in section 921a of this title.

(c) Inspection of places and practices of employment

The Secretary or his authorized representative may inspect such places of employment, question such employees, and investigate such conditions, practices, or matters in connection with employment subject to this chapter, as he may deem appropriate to determine whether any person has violated any provision of this section, or any rule or regulation issued thereunder, or which may aid in the enforcement of the provisions of this section. No employer or other person shall refuse to admit the Secretary or his authorized representatives to any such place or shall refuse to permit any such inspection.

(d) Requests for advice; variations from safety rules and regulations

Any employer may request the advice of the Secretary or his authorized representative, in complying with the requirements of any rule or regulation adopted to carry out the provisions of this section. In case of practical difficulties or unnecessary hardships, the Secretary in his discretion may grant variations from any such rule or regulation, or particular provisions thereof, and permit the use of other or different devices if he finds that the purpose of the rule or regulation will be observed by the variation and the safety of employees will be equally secured thereby. Any person affected by such rule or regulation, or his agent, may request the Secretary to grant such variation, stating in writing the grounds on which his request is based. Any authorization by the Secretary of a variation shall be in writing, shall describe the conditions under which the variation shall be permitted, and shall be published as provided in section 552 of title 5. A properly indexed record of all variations shall be kept in the office of the Secretary and open to public inspection.

(e) Jurisdiction to restrain violations

The United States district courts, together with the District Court for the Territory of Alaska, shall have jurisdiction for cause shown, in any action brought by the Secretary, represented as provided in section 921a of this title, to restrain violations of this section or of any rule, regulation, or order of the Secretary adopted to carry out the provisions of this section.

(f) Violations and penalties

Any employer who, willfully, violates or fails or refuses to comply with the provisions of subsection (a) of this section, or with any lawful rule, regulation, or order adopted to carry out the provisions of this section, and any employer or other person who willfully interferes with, hinders, or delays the Secretary or his authorized representative in carrying out his duties under subsection (c) of this section by refusing to admit the Secretary or his authorized representative to any place, or to permit the inspection or examination of any employment or place of employment, or who willfully hinders or delays the Secretary or his authorized representative in the performance of his duties in the enforcement of this section, shall be guilty of an offense, and, upon conviction thereof, shall be punished for each offense by a fine of not less than $100 nor more than $3,000; and in any case where such employer is a corporation, the officer who willfully permits any such violation to occur shall be guilty of an offense, and, upon conviction thereof, shall be punished also for each offense by a fine of not less than $100 nor more than $3,000. The liability hereunder shall not affect any other liability of the employer under this chapter.

(g) Inapplicability to certain employments

(1) The provisions of this section shall not apply in the case of any employment relating to the operations for the exploration, production, or transportation by pipeline of mineral resources upon the navigable waters of the United States, nor under the authority of subchapter III of chapter 29 of title 43, nor in the case of any employment in connection with lands (except filled in, made or reclaimed lands) beneath the navigable waters as defined in subchapters I and II of chapter 29 of title 43, nor in the case of any employment for which compensation in case of disability or death is provided for employees under the authority of the Act of May 17, 1928 (ch. 612, 45 Stat. 600), as amended [D.C. Code, § 36-501 et seq.], nor under the authority of chapter 11 of title 42.

(2) The provisions of this section, with the exception of paragraph (1) of subsection (b) of this section, shall not be applied under the authority of subchapter I of chapter 81 of title 5.

(Mar. 4, 1927, ch. 509, § 41, 44 Stat. 1444; Aug. 23, 1958, Pub. L. 85-742, § 1, 72 Stat. 835.)

REFERENCES IN TEXT

Title 52 of the Revised Statutes, referred to in subsec. (a) consists of R.S. §§ 4399 to 4500, which are classified to sections 170, 214, 215, 222, 224, 224a, 226, 228, 229, 230 to 234, 239, 240, 361, 362, 364, 371 to 373, 375 to 382, 384, 385, 391, 391a, 392 to 394, 399 to 404, 405 to 416, 435 to 440, 451 to 453, 460, 461 to 463, 464, 466, 467 to 482, and 489 to 498 of Title 46, Shipping. For complete classification of R.S. §§ 4399 to 4500 to the Code, see Tables volume.

The Act of June 15, 1917, referred to in subsec. (a), is act June 15, 1917, ch. 30, 40 Stat. 217. For complete classification of this Act to the Code, see Tables volume.

Subchapters I (§ 1301 et seq.) and II (§ 1311 et seq.) of chapter 29 of title 43, referred to in subsec. (g)(1),

was in the original a reference to the Act of May 22, 1953 (ch. 65, 67 Stat. 29), which is popularly known as the Submerged Lands Act.

Subchapter III (§ 1331 et seq.) of chapter 29 of title 43, referred to in subsec. (g)(1), was in the original a reference to the Act of August 7, 1953 (ch. 345, 67 Stat. 462), which is popularly known as the Outer Continental Shelf Lands Act.

Chapter 11 (§ 1651 et seq.) of title 42, referred to in subsec. (g)(1), was in the original a reference to the Act of August 16, 1941 (ch. 357, 55 Stat. 622), as amended, which is popularly known as the Defense Base Act.

CODIFICATION

In subsec. (d) "section 552 of title 5" was substituted for "section 3 of the Administrative Procedure Act (ch. 324, 60 Stat. 237), as amended", and in subsec. (g)(2) "subchapter I of chapter 81 of title 5" was substituted for "the Act of September 7, 1916 (ch. 458, 39 Stat. 742), as amended", on authority of section 7(b) of Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 631, section 1 of which enacted Title 5, Government Organization and Employees. Said section 3 of the Administrative Procedure Act had been classified to section 1002 of former Title 5, Executive Departments and Government Officers and Employees. Said act of Sept. 7, 1916, was known as the Federal Employees' Compensation Act and had been classified to section 751 et seq. of former Title 5.

AMENDMENTS

1958—Pub. L. 85-742 amended section generally and, among other changes, empowered the Secretary of Labor to prescribe, by regulation or order, safety rules for the furnishing and maintenance of safe places of employment and for the installation, furnishing and maintenance of safety devices and safeguards, authorized the Secretary to provide for the establishment and supervision of safety programs, permitted the inspection of places of employment and investigation of employment conditions and practices, granted jurisdiction to the district courts to restrain violations of this section or of any rules, regulations or orders of the Secretary, and to prescribe penalties for violations.

REPEALS

Reorg. Plan No. 19 of 1950, § 1, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1271, which was formerly set out in the credit to this section and which transferred the functions of the Federal Security Administrator to the Secretary of Labor, was repealed by Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 662.

Reorg. Plan No. 2 of 1946, § 3, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095, which was formerly set out in the credit to this section and which transferred the functions of the United States Employees' Compensation Commission to the Federal Security Administrator, was repealed by Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 662.

ADMISSION OF ALASKA AS STATE

Admission of Alaska into the Union was accomplished Jan. 3, 1959, upon issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, as required by sections 1 and 8(c) of Pub. L. 85-508, July 7, 1958, 72 Stat. 339, set out as notes preceding section 21 of Title 48, Territories and Insular Possessions.

DEFINITION OF "SECRETARY"

Section 2 of Pub. L. 85-742 provided that: "The term 'Secretary' as used in this Act and in amendments made by this Act [to this section] means the Secretary of Labor."

CROSS REFERENCES

Record of injury or death available to inspection by state authority, in section 929 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 5 section 7902; title 30 section 932.

§ 942. Repealed. Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 647

Section, act Mar. 4, 1927, ch. 509, § 42, 44 Stat. 1444, related to travel and subsistence expenses.

§ 943. Repealed. Pub. L. 89-348, § 1(15), Nov. 8, 1965, 79 Stat. 1311

Section, act Mar. 4, 1927, ch. 509, § 43, 44 Stat. 1444, required the Secretary to make a report to the Congress at the beginning of each regular session of the administration of this chapter for the preceding fiscal year, including a detailed statement of receipts of and expenditures from the funds established in sections 944 and 945 of this title.

§ 944. Special fund

(a) Establishment; administration; custody, trust

There is established in the Treasury of the United States a special fund. Such fund shall be administered by the Secretary. The Treasurer of the United States shall be the custodian of such fund, and all moneys and securities in such fund shall be held in trust by such Treasurer and shall not be money or property of the United States.

(b) Disbursements; bond of custodian

The Treasurer is authorized to disburse moneys from such fund only upon order of the Secretary. He shall be required to give bond in an amount to be fixed and with securities to be approved by the Secretary of the Treasury and the Comptroller General of the United States conditioned upon the faithful performance of his duty as custodian of such fund.

(c) Payments into fund

Payments into such fund shall be made as follows:

(1) Whenever the Secretary determines that there is no person entitled under this chapter to compensation for the death of an employee which would otherwise be compensable under this chapter, the appropriate employer shall pay $5,000 as compensation for the death of such an employee.

(2) At the beginning of each calendar year the Secretary shall estimate the probable expenses of the fund during that calendar year and each carrier or self-insurer shall make payments into the fund on a prorated assessment by the Secretary in the proportion that the total compensation and medical payments made on risks covered by this chapter by each carrier and self-insurer bears to the total of such payments made by all carriers and self-insurers under the chapter in the prior calendar year in accordance with a formula and schedule to be determined from time to time by the Secretary to maintain adequate reserves in the fund.

(3) All amounts collected as fines and penalties under the provisions of this chapter shall be paid into such fund.

(d) Investigations; records, availability; recordkeeping; provisions of sections 49 and 50 of title 15 applicable to Secretary

(1) For the purpose of making rules, regulations, and determinations under this section

under and for providing enforcement thereof, the Secretary may investigate and gather appropriate data from each carrier and self-insurer. For that purpose, the Secretary may enter and inspect such places and records (and make such transcriptions thereof), question such employees, and investigate such facts, conditions, practices, or matters as he may deem necessary or appropriate.

(2) Each carrier and self-insurer shall make, keep, and preserve such records, and make such reports and provide such additional information, as prescribed by regulation or order of the Secretary, as the Secretary deems necessary or appropriate to carry out his responsibilities under this section.

(3) For the purpose of any hearing or investigation related to determinations or the enforcement of the provisions of this section, the provisions of sections 49 and 50 of title 15 (relating to the attendance of witnesses and the production of books, papers, and documents) are hereby made applicable to the jurisdiction, powers, and duties of the Secretary of Labor.

(e) Authorization of appropriations; property of fund; repayment

There is hereby authorized to be appropriated to the Secretary the sum of $2,000,000 which the Secretary shall immediately deposit into the fund. Upon deposit in the fund such moneys shall be treated as the property of such fund. This sum, without additional payments for interest, shall be repaid from the money or property belonging to the fund on a schedule of repayment set by the Secretary: *Provided,* That full repayment must be made no later than five years from the date of deposit into the fund. Each such repayment, as made, shall be covered into the Treasury of the United States as miscellaneous receipts.

(f) Depositories; investments

The Treasurer of the United States shall deposit any moneys paid into such fund into such depository banks as the Secretary may designate and may invest any portion of the funds which, in the opinion of the Secretary, is not needed for current requirements, in bonds or notes of the United States or of any Federal land bank.

(g) Limitation of liability

Neither the United States nor the Secretary shall be liable in respect of payments authorized under section 908 of this title in an amount greater than the money or property deposited in or belonging to such fund.

(h) Audit by Comptroller General; finality of payment determinations; credits of disbursing officers

The Comptroller General of the United States shall audit the account for such fund, but the action of the Secretary in making payments from such fund shall be final and not subject to review, and the Comptroller General is authorized and directed to allow credit in the accounts of any disbursing officer of the Secretary for payments made from such fund authorized by the Secretary.

(i) Civil actions for civil penalties

All civil penalties provided for in this chapter shall be collected by civil suit brought by the Secretary.

(j) Proceeds available for certain payments

The proceeds of this fund shall be available for payments:

(1) Pursuant to sections 910 and 911 of this title with respect to initial and subsequent annual adjustments in compensation for total permanent disability or death which occurred prior to the effective date of this subsection.

(2) Under section 908(f) and (g), under section 918(b), and under section 939(c) of this title.

(3) To repay the sums deposited in the fund pursuant to subsection (d) of this section.

(4) To defray the expense of making examinations as provided in section 907 of this title.

(k) Audit to Congress

At the close of each fiscal year the Secretary shall submit to the Congress a complete audit of the fund.

(Mar. 4, 1927, ch. 509, § 44, 44 Stat. 1444; July 26, 1956, ch. 735, § 8, 70 Stat. 656; Oct. 27, 1972, Pub. L. 92-576, § 8, 86 Stat. 1256.)

REFERENCES IN TEXT

The effective date of this subsection, referred to in subsec. (j)(1), means thirty days after Oct. 27, 1972.

AMENDMENTS

1972—Subsec. (a). Pub. L. 92-576, § 8(a), substituted "special fund" for "special fund for the purpose of making payments in accordance with the provisions of subsections (f) and (g) of section 908, of subsection (b) of section 918, and of subsection (c) of section 939 of this title".

Subsec. (c)(1). Pub. L. 92-576, § 8(b), increased compensation payment for death to $5,000 from $1,000; inserted provision for compensation which would otherwise be compensable under this chapter; deleted second sentence, less two provisos, now incorporated in subsec. (j)(2) of this section; deleted first such proviso for priority of payments authorized by subsec. (f) over other payments authorized from the fund; and deleted second such proviso, now incorporated in subsec. (k) of this section.

Subsec. (c)(2). Pub. L. 92-576, § 8(b), added subsec. (c)(2). Former subsec. (c)(2) redesignated (c)(3).

Subsec. (c)(3). Pub. L. 92-576, § 8(b), redesignated former subsec. (c)(2) as (c)(3).

Subsec. (d). Pub. L. 92-576, § 8(b), added subsec. (d). Former subsec. (d) redesignated (f).

Subsec. (e). Pub. L. 92-576, § 8(b), added subsec. (e). Former subsec. (e) redesignated (g).

Subsecs. (f) to (i). Pub. L. 92-576, § 8(b), redesignated former subsecs. (d) to (g) as (f) to (i).

Subsec. (j). Pub. L. 92-576, § 8(d), added cls. (1), (3), and (4), and incorporated former part of first sentence of subsec. (a) and former second sentence, less provisos, of subsec. (c)(1), in provisions designated as cl. (2).

Subsec. (k). Pub. L. 92-576, § 8(d), incorporated former provisions of subsec. (c)(1), last proviso, in provisions designated as subsec. (k).

1956—Subsec. (a). Act July 26, 1956, § 8(a), substituted in the end of the first sentence, the words ", of subsection (b) of section 918 of this title, and of subsection (c) of section 939 of this title" for the words "of this title."

Subsec. (c)(1). Act July 26, 1956, § 8(b), substituted provisions relating to availability of fund for payments under sections 908(f) and (g), 918(b), and 939(c) of this title, proviso that subsec. (f) payments have priority, and further proviso requiring annual audit, for former provision that fifty per centum of each payment shall

be available for the payments under section 908(f) and (g) of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-576 effective 30 days after Oct. 27, 1972, see section 22 of Pub. L. 92-576, set out as an Effective Date of 1972 Amendment note under section 902 of this title.

REPEALS

Reorg. Plan No. 19 of 1950, § 1, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1271, which was formerly set out in the credit to this section and which transferred the functions of the Federal Security Administrator to the Secretary of Labor, was repealed by Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 662.

Reorg. Plan No. 2 of 1946, § 3, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095, which was formerly set out in the credit to this section and which transferred the functions of the United States Employees' Compensation Commission to the Federal Security Administrator, was repealed by Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 662.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of the Department of the Treasury, with certain exceptions, to the Secretary of the Treasury with power to delegate, see Reorg. Plan No. 26 of 1950, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, 1281, set out in the Appendix to Title 5, Government Organization and Employees. Functions of the Coast Guard, and the Commandant of the Coast Guard, were excepted from transfer when the Coast Guard is operating as part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

CROSS REFERENCES

Civil penalty for failure or refusal of employer to send report, see section 930 of this title.

Classification as trust funds, appropriation and disbursement of fund for "Relief and rehabilitation, Longshoremen's and Harbor Workers' Compensation Act," see section 725s of Title 31, Money and Finance.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 907, 908, 910, 918, 933, 939, 945, 948a of this title; title 30 section 932.

§ 945. Administration fund

(a) There is established in the Treasury of the United States a special fund for the purpose of providing for the payment of all expenses in respect of the administration of this chapter. Such fund shall be administered by the Secretary. The Treasurer of the United States shall be the custodian of such fund, and all moneys and securities in such fund shall be held in trust by such Treasurer and shall not be the money or property of the United States.

(b) The provisions of subdivisions (b), (d), and (f) of section 944 of this title shall be applicable to the fund established.

(Mar. 4, 1927, ch. 509, § 45, 44 Stat. 1445.)

REPEALS

Reorg. Plan No. 19 of 1950, § 1, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1271, which was formerly set out in the credit to this section and which transferred the functions of the Federal Security Administrator to the Secretary of Labor, was repealed by Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 662.

Reorg. Plan No. 2 of 1946, § 3, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095, which was formerly set out in the credit to this section and which transferred the functions of the United States Employees' Compensation Commission to the Federal Security Administrator, was repealed by Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 662.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of the Department of the Treasury, with certain exceptions, to the Secretary of the Treasury with power to delegate, see Reorg. Plan No. 26 of 1950, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, 1281, set out in the Appendix to Title 5, Government Organization and Employees. Functions of the Coast Guard, and the Commandant of the Coast Guard, were excepted from transfer when the Coast Guard is operating as part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 939, 947 of this title; title 30 section 932.

§ 946. Omitted

CODIFICATION

Section, act Mar. 4, 1927, ch. 509, § 46, 44 Stat. 1445, appropriated $250,000 to be available for expenses of administration of this chapter for fiscal years ending June 30, 1927, and June 30, 1928.

§ 947. Availability of appropriations

The expenses incurred for salaries and contingent expenses by the Secretary in the administration (1) of subchapter I of chapter 81 of title 5, and (2) of this chapter, may be paid from the appropriations for salaries and contingent expenses for the administration of said subchapter I of chapter 81 of title 5, and from the fund established in section 945 of this title, in such proportion as the Secretary, with the approval of the Director of the Office of Management and Budget, determines to be fairly attributable to the cost of administration of the respective chapters, but the total amount paid from such appropriation and such fund in any fiscal year on account of the administration of said subchapter I of chapter 81 of title 5, shall not exceed the amounts appropriated for salaries and contingent expenses for the administration of said subchapter I of chapter 81 for such year.

(Mar. 4, 1927, ch. 509, § 47, 44 Stat. 1445; 1970 Reorg. Plan No. 2, § 102, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085.)

CODIFICATION

"Subchapter I of chapter 81 of title 5" was substituted for "the Act of September 7, 1916, as amended", known as the Federal Employees Compensation Act, on authority of section 7(b) of Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 631, section 1 of which enacted Title 5, Government Organization and Employees.

REPEALS

Reorg. Plan No. 19 of 1950, § 1, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1271, which was formerly set out in the credit to this section and which transferred the functions of the Federal Security Administrator to the Secretary of Labor, was repealed by Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 662.

Reorg. Plan No. 2 of 1946, § 3, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095, which was formerly set out in the credit to this section and which transferred the functions of the United States Employees' Compensation Commission to the Federal Security Administrator, was repealed by Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 662.

TRANSFER OF FUNCTIONS

All functions vested by law (including reorganization plan) in the Bureau of the Budget or the Director of the Bureau of the Budget were transferred to the President of the United States by section 101 of Reorg. Plan No. 2 of 1970, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085, set out in the Appendix to Title 5, Government Organization and Employees. Section 102 of Reorg. Plan No. 2 of 1970 redesignated the Bureau of the Budget as the Office of Management and Budget.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 30 section 932.

§ 948. Laws inapplicable

Nothing in sections 183, 184 to 186, 188, or 189 of title 46, shall be held to limit the amount for which recovery may be had (1) in any suit at law or in admiralty where an employer has failed to secure compensation as required by this chapter, or (2) in any proceeding for compensation, any addition to compensation, or any civil penalty.

(Mar. 4, 1927, ch. 509, § 48, 44 Stat. 1446.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 30 section 932.

§ 948a. Discrimination against employees who bring proceedings; penalties; deposit of payments in special fund; civil actions; entitlement to restoration of employment and compensation, qualifications requirement; liability of employer for penalties and payments; insurance policy exemption from liability

It shall be unlawful for any employer or his duly authorized agent to discharge or in any other manner discriminate against an employee as to his employment because such employee has claimed or attempted to claim compensation from such employer, or because he has testified or is about to testify in a proceeding under this chapter. Any employer who violates this section shall be liable to a penalty of not less than $100 or more than $1,000, as may be determined by the deputy commissioner. All such penalties shall be paid to the deputy commissioner for deposit in the special fund as described in section 944 of this title, and if not paid may be recovered in a civil action brought in the appropriate United States district court. Any employee so discriminated against shall be restored to his employment and shall be compensated by his employer for any loss of wages arising out of such discrimination: *Provided*, That if such employee shall cease to be qualified to perform the duties of his employment, he shall not be entitled to such restoration and compensation. The employer alone and not his carrier shall be liable for such penalties and payments. Any provision in an insurance policy undertaking to relieve the employer from the liability for such penalties and payments shall be void.

(Mar. 4, 1927, ch. 509, § 49, as added Oct. 27, 1972, Pub. L. 92-576, § 19, 86 Stat. 1263.)

EFFECTIVE DATE

Section effective 30 days after Oct. 27, 1972, see section 22 of Pub. L. 92-576, set out as an Effective Date of 1972 Amendment note under section 902 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 30 section 932.

§ 949. Effect of unconstitutionality

If any part of this chapter is adjudged unconstitutional by the courts, and such adjudication has the effect of invalidating any payment of compensation under this chapter, the period intervening between the time the injury was sustained and the time of such adjudication shall not be computed as a part of the time prescribed by law for the commencement of any action against the employer in respect of such injury; but the amount of any compensation paid under this chapter on account of such injury shall be deducted from the amount of damages awarded in such action in respect of such injury.

(Mar. 4, 1927, ch. 509, § 50 formerly § 49, 44 Stat. 1446, renumbered Oct. 27, 1972, Pub. L. 92-576, § 19, 86 Stat. 1263.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 30 section 932.

§ 950. Separability of provisions

If any provision of this chapter is declared unconstitutional or the applicability thereof to any person or circumstances is held invalid, the validity of the remainder of the chapter and the applicability of such provision to other persons and circumstances shall not be affected thereby.

(Mar. 4, 1927, ch. 509, § 51 formerly § 50, 44 Stat. 1446, renumbered Oct. 27, 1972, Pub. L. 92-576, § 19, 86 Stat. 1263.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 30 section 932.

CHAPTER 19—SAINT LAWRENCE SEAWAY

Sec.
981. Creation of Saint Lawrence Seaway Development Corporation.
982. Management of Corporation; appointment of Administrator; terms; vacancy; Advisory Board; establishment; membership; meetings; duties; compensation and expenses
983. Functions of Corporation.
(a) Construction of deep-water navigation works in Saint Lawrence River; conditions precedent.
(b) Coordination of activities regarding power projects.
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984a. Repealed.
985. Bonds; issuance; maturity; redemption; interest; purchase of obligations by Secretary of the Treasury.
986. Payments to States and local governments in lieu of taxes; tax exemption of Corporation.
987. Services and facilities of other agencies.
(a) Utilization of personnel, services, facilities, and information.
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Sec.
988. Rates of charges or tolls.
(a) Negotiation with Canadian authorities; revenue sharing formula; consideration of American financing costs, including interest and debt principal; rules of measurement; hearings and rehearings; approval by President; court review.
(b) Principles governing establishment of rates.
989. Annual and special reports.
990. Offenses and penalties.
(a) Application of penal statutes.
(b) Frauds and false entries, reports, or statements.
(c) Receipt of compensation, or conspiracy, with intent to defraud, etc.

§ 981. Creation of Saint Lawrence Seaway Development Corporation

There is hereby created, subject to the direction and supervision of the Secretary of Transportation, a body corporate to be known as the Saint Lawrence Seaway Development Corporation (hereinafter referred to as the "Corporation").

(May 13, 1954, ch. 201, § 1, 68 Stat. 93; Oct. 15, 1966, Pub. L. 89-670, § 8(g)(1), 80 Stat. 943.)

AMENDMENTS

1966—Pub. L. 89-670 substituted "Secretary of Transportation" for "President, or the head of such agency as he may designate".

SEPARABILITY OF PROVISIONS

Section 11 of act May 13, 1954, provided: "If any provision of this Act [enacting this chapter and amending section 846 of Title 31, Money and Finance] or the application of such provision to any person or circumstances shall be held invalid, the remainder of the Act and the application of such provision to persons or circumstances other than those to which it is held invalid shall not be affected thereby."

ADMINISTRATOR TO REPORT DIRECTLY TO THE SECRETARY OF TRANSPORTATION

Section 8(g)(2) of Pub. L. 89-670 provided that: "Notwithstanding any other provision of this Act, [see Short Title note under section 1651 of Title 49, Transportation], the Administrator of the Saint Lawrence Seaway Development Corporation shall report directly to the Secretary."

EXECUTIVE ORDER No. 10534

Ex. Ord. No. 10534, June 9, 1954, 19 F.R. 3413, as amended by Ex. Ord. No. 10771, June 23, 1958, 23 F.R. 4525, which related to the direction and supervision of the St. Lawrence Seaway Development Corporation, was revoked by section 16 of Ex. Ord. No. 11382, Nov. 28, 1967, 32 F.R. 16247, set out as a note under section 1652 of Title 49, Transportation.

§ 982. Management of Corporation; appointment of Administrator; terms; vacancy; Advisory Board; establishment; membership; meetings; duties; compensation and expenses

(a) The management of the corporation shall be vested in an Administrator who shall be appointed by the President, by and with the advice and consent of the Senate, for a term of seven years. Any Administrator appointed to fill a vacancy in that position prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term.

(b) There is established the Advisory Board of the Saint Lawrence Seaway Development Corporation which shall be composed of five members appointed by the President, by and with the advice and consent of the Senate, not more than three of whom shall belong to the same political party. The Advisory Board shall meet at the call of the Administrator, who shall require it to meet not less often than once each ninety days; shall review the general policies of the Corporation, including its policies in connection with design and construction of facilities and the establishment of rules of measurement for vessels and cargo and rates of charges or tolls; and shall advise the Administrator with respect thereto. Members of the Advisory Board shall receive for their services as members compensation of not to exceed $50 per diem when actually engaged in the performance of their duties, together with their necessary traveling expenses while going to and coming from meetings.

(May 13, 1954, ch. 201, § 2, 68 Stat. 93; Jan. 2, 1975, Pub. L. 93-615, § 1, 88 Stat. 1977.)

CODIFICATION

Provisions of subsecs. (a) and (b) which prescribed the compensation of the Administrator and the Deputy Administrator were omitted to conform to the provisions of act July 31, 1956, ch. 804, title I, §§ 106(a), 107(a), 70 Stat. 738. Pay provisions are now covered by section 5315 of Title 5, Government Organization and Employees.

AMENDMENTS

1975—Subsec. (a). Pub. L. 93-615, § 1(a), added the provisions relating to a term of seven years and the length of the term of any Administrator appointed to fill a vacancy in the position of the Administrator prior to the expiration of the term for which his predecessor was appointed.

Subsec. (b). Pub. L. 93-615, § 1(b), redesignated subsec. (c) as (b). Former subsec. (b), relating to the appointment and duties of a Deputy Administrator, was repealed.

Subsec. (c). Pub. L. 93-615, § 1(b), redesignated subsec. (c) as (b).

EFFECTIVE DATE OF 1975 AMENDMENT

Section 2 of Pub. L. 93-615 provided that: "The amendments made to section 2 of the Act of May 13, 1954, by the first section of this Act [amending the section] shall (1) take effect upon the first appointment of an Administrator of the Saint Lawrence Seaway Development Corporation which is made after the date of enactment of this Act [Jan. 2, 1975], and (2) be applicable to such first appointment and to each subsequent appointment to such position."

TERMINATION OF ADVISORY BOARDS

Advisory Boards in existence on Jan. 5, 1973, to terminate not later than the expiration of the two-year period following Jan. 5, 1973, unless, in the case of a Board established by the President or an officer of the Federal Government, such Board is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a Board established by the Congress, its duration is otherwise provided by law, see sections 3(2) and 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 983. Functions of Corporation

(a) Construction of deep-water navigation works in Saint Lawrence River; conditions precedent

The Corporation is authorized and directed to construct, in United States territory, deep-water navigation works substantially in accordance with the "Controlled single stage project, 238-242" (with a controlling depth of twenty-seven feet in channels and canals and locks at least eight hundred feet long, eighty feet wide, and thirty feet over the sills), designated as "works solely for navigation" in the joint report dated January 3, 1941, of the Canadian Temporary Great Lakes-Saint Lawrence Basin Committee and the United States Saint Lawrence Advisory Committee, in the International Rapids section of the Saint Lawrence River together with necessary dredging in the Thousand Islands section; and to operate and maintain such works in coordination with the Saint Lawrence Seaway Authority of Canada, created by chapter 24 of the acts of the fifth session of the Twenty-first Parliament of Canada 15-16, George VI (assented to December 21, 1951): *Provided*, That the Corporation shall not proceed with the aforesaid construction unless and until—

(1) the Saint Lawrence Seaway Authority of Canada, provides assurances satisfactory to the Corporation that it will complete the Canadian portions of the navigation works authorized by section 10, chapter 24 of the acts of the fifth session of the Twenty-first Parliament of Canada 15-16, George VI, 1951, as nearly as possible concurrently with the completion of the works authorized by this section;

(2) the Corporation has received assurances satisfactory to it that the State of New York, or an entity duly designated by it, or other licensee of the Federal Power Commission, in conjunction with an appropriate agency in Canada, as nearly as possible concurrently with the navigation works herein authorized, will construct and complete the dams and power works approved by the International Joint Commission in its order of October 29, 1952 (docket 68) or any amendment or modification thereof.

(b) Coordination of activities regarding power projects

The Corporation shall make necessary arrangements to assure the coordination of its activities with those of the Saint Lawrence Seaway Authority of Canada and the entity designated by the State of New York, or other licensee of the Federal Power Commission, authorized to construct and operate the dams and power works authorized by the International Joint Commission in its order of October 29, 1952 (docket 68) or any amendment or modification thereof.

(May 13, 1954, ch. 201, § 3, 68 Stat. 93.)

§ 984. General powers of Corporation

(a) For the purpose of carrying out its functions under this chapter the Corporation—

(1) shall have succession in its corporate name;

(2) may adopt and use a corporate seal, which shall be judicially noticed;

(3) may sue and be sued in its corporate name;

(4) may adopt, amend, and repeal bylaws, rules, and regulations governing the manner in which its business may be conducted and the powers vested in it may be exercised;

(5) may make and carry out such contracts or agreements as are necessary or advisable in the conduct of its business;

(6) shall be held to be an inhabitant and resident of the northern judicial district of New York within the meaning of the laws of the United States relating to venue of civil suits;

(7) may appoint and fix the compensation, in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of title 5, of such officers, attorneys, and employees as may be necessary for the conduct of its business, define their authority and duties, and delegate to them such of the powers vested in the Corporation as the Administrator may determine;

(8) may acquire, by purchase, lease, condemnation, or donation such real and personal property and any interest therein, and may sell, lease, or otherwise dispose of such real and personal property, as the Administrator deems necessary for the conduct of its business;

(9) shall determine the character of and the necessity for its obligations and expenditures, and the manner in which they shall be incurred, allowed and paid, subject to provisions of law specifically applicable to Government corporations;

(10) may provide services and facilities necessary in the maintenance and operation of the seaway, including but not limited to providing, at reasonable prices, services to vessels using the seaway and to visitors to the seaway, but not to include overnight housing accommodations for visitors;

(11) may participate with the Saint Lawrence Seaway Authority of Canada, or its designee, in the ownership and operation of a toll bridge company: *Provided*, That the United States' portion of the revenue from the tolls charged to the users of any toll bridge operated under this section shall be applied solely to the cost of the bridge and approaches, including maintenance and operation, amortization of principal and interest, as established by the Secretary of the Treasury; and

(12) shall be credited with amounts received from any of the activities authorized by clauses (10) and (11) of this subsection.

(b) Amounts credited under subsection (a)(12) of this section are available to pay any obligation or expense of the Corporation under this chapter, except as specifically provided in subsection (a)(11) of this section.

(May 13, 1954, ch. 201, § 4, 68 Stat. 94; July 17, 1957, Pub. L. 85-108, § 1(1)-(3), 71 Stat. 307; June 6, 1972, Pub. L. 92-310, title II, § 232, 86 Stat. 214.)

CODIFICATION

In subsec. (a)(7), "chapter 51 and subchapter III of chapter 53 of title 5" was substituted for "the Classification Act of 1949" on authority of section 7(b) of Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 631, section 1 of which enacted Title 5, Government Organization and Employees.

AMENDMENTS

1972—Subsec. (a)(7). Pub. L. 92-310 eliminated provisions which empowered the Corporation to require bonds from such officers, attorneys, and employees as the Administrator might designate.

1957—Subsecs. (a)(10) to (12) and subsec. (b). Pub. L. 85-108 added subsecs. (a)(10) to (12) and subsec. (b).

CROSS REFERENCES

Venue of civil actions in United States District Courts, see section 1391 et seq., of Title 28, Judiciary and Judicial Procedure.

§ 984a. Repealed. June 28, 1955, ch. 189, § 12(c)(11), 69 Stat. 181

Section, act Aug. 26, 1954, ch. 935, ch. VIII, § 801, 68 Stat. 818, authorized the Administrator to place not more than four positions in grades 16, 17, or 18 of the General Schedule established by the Classification Act of 1949.

§ 985. Bonds; issuance; maturity; redemption; interest; purchase of obligations by Secretary of the Treasury

(a) To finance its activities, the Corporation may issue revenue bonds payable from corporate revenue to the Secretary of the Treasury. The total face value of all bonds so issued shall not be greater than $140,000,000. Not more than fifty per centum of the bonds may be issued during any one year. Such obligations shall have maturities agreed upon by the Corporation and the Secretary of the Treasury, not in excess of fifty years. Such obligations may be redeemable at the option of the Corporation before maturity in such manner as may be stipulated in such obligations, but the obligations thus redeemed shall not be refinanced by the Corporation. The Secretary of the Treasury is authorized and directed to purchase any obligations of the Corporation to be issued hereunder and for such purpose the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under the Second Liberty Bond Act, as amended, are extended to include any purchases of the Corporation's obligations hereunder.

(b) Effective as of October 21, 1970, the obligations of the Corporation incurred under subsection (a) of this section shall bear no interest, and the obligation of the Corporation to pay the unpaid interest which has accrued on such obligations is terminated.

(May 13, 1954, ch. 201, § 5, 68 Stat. 94; July 17, 1957, Pub. L. 85-108, § 1(4), 71 Stat. 307; Oct. 21, 1970, Pub. L. 91-469, § 43(a), 84 Stat. 1038.)

REFERENCES IN TEXT

The Second Liberty Bond Act, as amended, referred to in subsec. (a), is act Sept. 24, 1917, ch. 56, 40 Stat. 288, as amended. For complete classification of this Act to the Code, see References in Text note set out under section 774 of Title 31, Money and Finance, and Tables volume.

AMENDMENTS

1970—Subsec. (a). Pub. L. 91-469, § 43(a)(1), designated existing provisions as subsec. (a) and struck out fourth, fifth, and eighth sentences which provided for deferral, with approval of Secretary of Treasury, of interest payments on bonds but required interest payments so deferred to bear interest after June 30, 1960; prohibited charging of deferred interest against debt limitation of $140,000,000; and prescribed for each obligation a rate of interest determined by the Secretary, taking into consideration the current average rate on current marketable obligations of the United States of comparable maturities as of the last day of the month preceding the issuance of the obligation of the Corporation.

Subsec. (b). Pub. L. 91-469, § 43(a)(2), added subsec. (b).

1957—Pub. L. 85-108 increased Corporation's borrowing authority from $105,000,000 to $140,000,000; omitted first year bond issue limitation, and raised limits of bond issues for any year from 40 to 50 per centum of total borrowing power; and authorized deferment of interest payments on borrowings, excluding such deferred interest charges from the debt limitation of $140,000,000.

§ 986. Payments to States and local governments in lieu of taxes; tax exemption of Corporation

The Corporation is authorized to make payments to State and local governments in lieu of property taxes upon property which was subject to State and local taxation before acquisition by the Corporation. Such payments may be in the amounts, at the times, and upon the terms the Corporation deems appropriate, but the Corporation shall be guided by the policy of making payments not in excess of the taxes which would have been payable for such property in the condition in which it was acquired, except in cases where special burdens are placed upon the State or local government by the activities of the Corporation or its agents. The Corporation, its property, franchises, and income are expressly exempted from taxation in any manner or form by any State, county, municipality, or any subdivision thereof, but such exemption shall not extend to contractors for the Corporation.

(May 13, 1954, ch. 201, § 7, 68 Stat. 95.)

§ 987. Services and facilities of other agencies

(a) Utilization of personnel, services, facilities, and information

The Corporation may, with the consent of the agency concerned, accept and utilize, on a reimbursable basis, the officers, employees, services, facilities, and information of any agency of the Federal Government, except that any such agency having custody of any data relating to any of the matters within the jurisdiction of the Corporation shall, upon request of the Administrator, make such data available to the Corporation without reimbursement.

(b) Contributions to retirement and disability, and employees' compensation, funds; payment of costs

The Corporation shall contribute to the civil-service retirement and disability fund, on the basis of annual billings as determined by the Civil Service Commission, for the Government's share of the cost of the civil-service retirement

system applicable to the Corporation's employees and their beneficiaries. The Corporation shall also contribute to the employee's compensation fund, on the basis of annual billings as determined by the Secretary of Labor, for the benefit payments made from such fund on account of the Corporation's employees. The annual billings shall also include a statement of the fair portion of the cost of the administration of the respective funds, which shall be paid by the Corporation into the Treasury as miscellaneous receipts.

(May 13, 1954, ch. 201, § 8, 68 Stat. 95.)

§ 988. Rates of charges or tolls

(a) Negotiation with Canadian authorities; revenue sharing formula; consideration of American financing costs, including interest and debt principal; rules of measurement; hearings and rehearings; approval by President; court review

The Corporation is further authorized and directed to negotiate with the Saint Lawrence Seaway Authority of Canada, or such other agency as may be designated by the Government of Canada, an agreement as to the rules for the measurement of vessels and cargoes and the rates of charges or tolls to be levied for the use of the Saint Lawrence Seaway, and for an equitable division of the revenues of the seaway between the Corporation and the Saint Lawrence Seaway Authority of Canada. Any formula for a division of revenues which takes into consideration annual debt charges shall include the total cost, including both interest and debt principal, incurred by the United States in financing activities authorized by this chapter, whether or not reimbursable by the Corporation. Such rules for the measurement of vessels and cargoes and rates of charges or tolls shall, to the extent practicable, be established or changed only after giving due notice and holding a public hearing. In the event that such negotiations shall not result in agreement, the Corporation is authorized and directed to establish unilaterally such rules of measurement and rates of charges or tolls for the use of the works under its administration: *Provided, however,* That the Corporation shall give three months' notice, by publication in the Federal Register, of any proposals to establish or change unilaterally the basic rules of measurement and of any proposals to establish or change unilaterally the rates of charges or tolls, during which period a public hearing shall be conducted. Any such establishment of or changes in basic rules of measurement or rates of charges or tolls shall be subject to and shall take effect thirty days following the date of approval thereof by the President, and shall be final and conclusive, subject to review as hereinafter provided. Any person aggrieved by an order of the Corporation establishing or changing such rules or rates may, within such thirty-day period, apply to the Corporation for a rehearing of the matter upon the basis of which the order was entered. The Corporation shall have power to grant or deny the application for rehearing and upon such rehearing or without further hearing to abrogate or modify its order. The action of the Corporation in denying an application for rehearing or in abrogating or modifying its order shall be final and conclusive thirty days after its approval by the President unless within such thirty-day period a petition for review is filed by a person aggrieved by such action in the United States Court of Appeals for the circuit in which the works to which the order applies are located or in the United States Court of Appeals for the District of Columbia. The court in which such petition is filed shall have the same jurisdiction and powers as in the case of petitions to review orders of the Federal Power Commission filed under section 825*l* of title 16. The judgment of the court shall be final subject to review by the Supreme Court upon certiorari or certification as provided in sections 1254(1) and 1254(3) of title 28. The filing of an application for rehearing shall not, unless specifically ordered by the Corporation, operate as a stay of the Corporation's order. The filing of a petition for review shall not, unless specifically ordered by the court, operate as a stay of the Corporation's order.

(b) Principles governing establishment of rates

In the course of its negotiations, or in the establishment, unilaterally, of the rates of charges or tolls as provided in subsection (a) of this section, the Corporation shall be guided by the following principles:

(1) That the rates shall be fair and equitable and shall give due consideration to encouragement of increased utilization of the navigation facilities, and to the special character of bulk agricultural, mineral, and other raw materials.

(2) That rates shall vary according to the character of cargo with the view that each classification of cargo shall so far as practicable derive relative benefits from the use of these facilities.

(3) That the rates on vessels in ballast without passengers or cargo may be less than the rates for vessels with passengers or cargo.

(4) That the rates prescribed shall be calculated to cover, as nearly as practicable, all costs of operating and maintaining the works under the administration of the Corporation, including depreciation and payments in lieu of taxes.

(5) That the rates shall provide, in addition, for the Corporation revenues sufficient to amortize the principal of the debts and obligations of the Corporation over a period not to exceed fifty years.

(May 13, 1954, ch. 201, § 12, 68 Stat. 96; Oct. 21, 1970, Pub. L. 91-469, § 43(b), 84 Stat. 1038.)

AMENDMENTS

1970—Subsec. (a). Pub. L. 91-469, § 43(b)(1), inserted requirement that any formula for a division of revenues which takes into consideration annual debt charges shall include the total cost, including both interest and debt principal, incurred by the United States in financing activities authorized by this chapter, whether or not reimbursable by the Corporation.

Subsec. (b)(4). Pub. L. 91-469, § 43(b)(2), struck out ", payment of interest on the obligations of the Corporation," after "depreciation".

§ 989. Annual and special reports

(a) The Corporation shall submit to the President for transmission to the Congress at the be-

ginning of each regular session an annual report of its operations under this chapter.

(b) The Corporation, after July 17, 1957, shall submit special reports to the Congress whenever there is proposed a new feature, design, or phase of the seaway project, not heretofore included in estimates, or whenever there is proposed an abandonment of any feature, design, or phase, heretofore included in estimates, involving an estimated value exceeding one million dollars, and such special reports shall include justification for the modifications.

(May 13, 1954, ch. 201, § 10, 68 Stat. 96; July 17, 1957, Pub. L. 85-108, § 1(5), 71 Stat. 308.)

AMENDMENTS

1957—Pub. L. 85-108 designated existing provisions as subsec. (a) and added subsec. (b).

§ 990. Offenses and penalties

(a) Application of penal statutes

All general penal statutes relating to the larceny, embezzlement, or conversion, of public moneys or property of the United States shall apply to the moneys and property of the Corporation.

(b) Frauds and false entries, reports, or statements

Any person who, with intent to defraud the Corporation, or to deceive any director, officer or employee of the United States, (1) makes any false entry in any book of the Corporation, or (2) makes any false report or statement for the Corporation, shall, upon conviction thereof, be fined not more than $10,000 or imprisoned not more than five years, or both.

(c) Receipt of compensation, or conspiracy, with intent to defraud, etc.

Any person who shall receive any compensation, rebate, or reward, or shall enter into any conspiracy, collusion, or agreement, express or implied, with intent to defraud the Corporation or wrongfully and unlawfully to defeat its purposes, shall, on conviction thereof, be fined not more than $5,000 or imprisoned not more than five years, or both.

(May 13, 1954, ch. 201, § 9, 68 Stat. 96.)

CROSS REFERENCES

Embezzlement, theft, conversion, etc., see section 641 et seq., of Title 18, Crimes and Criminal Procedure.

CHAPTER 20—POLLUTION OF THE SEA BY OIL

Sec.

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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 49 section 1655.

§ 1001. Definitions

As used in this chapter, unless the context otherwise requires—

(a) The term "convention" means the International Convention for the Prevention of the Pollution of the Sea by Oil, 1954, as amended;

(b) The term "discharge" in relation to oil or to an oily mixture means any discharge or escape howsoever caused;

(c) The term "instantaneous rate of discharge of oil content" means the rate of discharge of oil in liters per hour at any instant divided by the speed of the ship in knots at the same instant;

(d) The term "heavy diesel oil" means diesel oil, other than those distillates of which more than 50 per centum, by volume distills at a temperature not exceeding three hundred and forty degrees centigrade when tested by American Society for Testing and Materials standard method D. 86/59;

(e) The term "mile" means a nautical mile of six thousand and eighty feet or one thousand eight hundred and fifty-two meters;

(f) The term "oil" means crude oil, fuel oil, heavy diesel oil, and lubricating oil, and "oily" shall be construed accordingly; an "oily mixture" means a mixture with any oil content;

(g) The term "person" means an individual, partnership, corporation, or association; and any owner, operator, agent, master, officer or employee of a ship;

(h) The term "Secretary" means the Secretary of the department in which the Coast Guard is operating;

(i) The term "ship", subject to the exceptions provided in paragraph (1) of this subsection, means any seagoing vessel of any type whatsoever of American registry or nationality, including floating craft, whether self-propelled or towed by another vessel making a sea voyage; and "tanker", as a type included within the term "ship", means a ship in which the greater part of the cargo space is constructed or adapted for the carriage of liquid cargoes in bulk and which is not, for the time being, carrying a cargo other than oil in that part of its cargo space.

(1) [1] The following categories of vessels are excepted from all provisions of this chapter:

(i) tankers of under one hundred and fifty tons gross tonnage and other ships of under five hundred tons gross tonnage.

(ii) ships for the time being engaged in the whaling industry when actually employed on whaling operations.

(iii) ships for the time being navigating the Great Lakes of North America and their connecting and tributary waters as far east as the lower exit of Saint Lambert lock at Montreal in the Province of Quebec, Canada.

(iv) naval ships and ships for the time being used as naval auxiliaries.

(j) The term "from the nearest land" means from the baseline from which the territorial sea of the territory in question is established in accordance with the Geneva Convention on the Territorial Sea and the Contiguous Zone, 1958; except that, for the purpose of this chapter "from the nearest land" off the northeastern coast of Australia means a line drawn from a point on the coast of Australia in latitude 11 degrees south, longitude 142 degrees 08 minutes east to a point in latitude 10 degrees 35 minutes south, longitude 141 degrees 55 minutes east—

thence to a point latitude 10 degrees 00 minutes south, longitude 142 degrees 00 minutes east;

thence to a point latitude 9 degrees 10 minutes south, longitude 143 degrees 52 minutes east;

thence to a point latitude 9 degrees 00 minutes south, longitude 144 degrees 30 minutes east;

thence to a point latitude 13 degrees 00 minutes south, longitude 144 degrees 00 minutes east;

thence to a point latitude 15 degrees 00 minutes south, longitude 146 degrees 00 minutes east;

thence to a point latitude 18 degrees 00 minutes south, longitude 147 degrees 00 minutes east;

thence to a point latitude 21 degrees 00 minutes south, longitude 153 degrees 00 minutes east;

thence to a point on the coast of Australia in latitude 24 degrees 42 minutes south, longitude 153 degrees 15 minutes east.

(Pub. L. 87-167, § 2, Aug. 30, 1961, 75 Stat. 402; Pub. L. 89-551, § 1(2), Sept. 1, 1966, 80 Stat. 372; Pub. L. 89-670, § 6(g)(5), Oct. 15, 1966, 80 Stat. 941; Pub. L. 93-119, § 2(1), Oct. 4, 1973, 87 Stat. 424.)

[1] So in original. No par. 2 has been enacted.

EFFECTIVE DATE OF 1973 AMENDMENT

For effective date of amendment by Pub. L. 93-119, § 2(1), Oct. 4, 1973, 87 Stat. 424, see section 1016 of this title and note thereunder.

AMENDMENTS

1973—Subsec. (c). Pub. L. 93-119, § 2(1)(C), added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 93-119, § 2(1)(B), (D), redesignated former subsec. (c) as (d), and deleted the word "marine" preceding "diesel oil" and substituted "American Society for Testing and Materials" for "American Society for the Testing of Materials", respectively. Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 93-119, § 2(1)(B), redesignated former subsec. (d) as (e). Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 93-119, § 2(1)(B), (E), redesignated former subsec. (e) as (f) and substituted "; an 'oily mixture' means a mixture with any oil content;" for ". An 'oily mixture' means a mixture with an oil content of one hundred parts or more in one million parts of mixture." Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 93-119, § 2(1)(A), (B), repealed former subsec. (g) which defined "prohibited zones" and redesignated former subsec. (f) as (g), respectively.

Subsec. (h). Pub. L. 93-119, § 2(1)(F), substituted as the definition for "Secretary" the "Secretary of the department in which the Coast Guard is operating" for "Secretary of Transportation".

Subsec. (j). Pub. L. 93-119, § 2(1)(G), inserted definition of "from the nearest land" off the northeastern coast of Australia.

1966—Subsec. (a). Pub. L. 89-551, § 1(2)(A), inserted ", as amended" immediately following "International Convention for the Prevention of the Pollution of the Sea by Oil, 1954".

Subsec. (c). Pub. L. 89-551, § 1(2)(B), substituted "D. 86/59" for "D. 158/53".

Subsec. (e). Pub. L. 89-551, § 1(2)(C), struck out reference to persistent oils and struck out requirement that the oil in an oily mixture fouls the surface of the sea.

Subsec. (i). Pub. L. 89-551, § 1(2)(D), expanded the definition of "ship" to include seagoing vessels of any type whatsoever of American registry or nationality, including floating craft, whether self-propelled or towed by another vessel making a sea voyage, inserted a definition of "tanker", subjected tankers of 150 to 500 tons to the provisions of this chapter, and substituted the lower exit of Saint Lambert lock for the lower exit of the Lachine Canal as the point at Montreal, Canada, constituting the easternmost point of the Great Lakes and their tributary waters within which ships are excepted from the provisions of this chapter.

Subsec. (j). Pub. L. 89-551, § 1(2)(E), added subsec. (j).

SHORT TITLE OF 1973 AMENDMENT

Section 1 of Pub. L. 93-119 provided: "That this Act [which enacted sections 1004a and 1016, amended sections 1001 to 1004, 1005, 1007 to 1010, and 1014, and repealed sections 1011 and 1015 of this title] may be cited as the 'Oil Pollution Act Amendments of 1973'."

SHORT TITLE

Section 1 of Pub. L. 87-167, as amended by section 1(1) of Pub. L. 89-551, provided: "That this Act [which enacted this chapter], to implement the provisions of the International Convention for the Prevention of the Pollution of the Sea by Oil, 1954, as amended, may be cited as the 'Oil Pollution Act, 1961, as amended'."

SEPARABILITY OF PROVISIONS

Section 14, formerly § 15, of Pub. L. 87-167, renumbered by section 2(13) of Pub. L. 93-119 provided that: "If a provision of this Act [this chapter] or the application of such provision to any person or circumstances shall be held invalid, the remainder of the Act [this chapter] and the application of such provision to persons or circumstances other than those to which it is held invalid shall not be affected thereby."

TRANSFER OF FUNCTIONS

"Secretary of Transportation" was substituted for "Secretary of the Army" in par. (h) pursuant to section 6(g)(5) of Pub. L. 89-670, which transferred all functions, powers, and duties of the Secretary of the Army and other officers and offices of the Department of the Army under this chapter to the Secretary of Transportation. See section 1655 of Title 49, Transportation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1007 of this title.

§ 1002. Prohibition against discharge of oil or oily mixtures; permissible discharges

Subject to the provisions of sections 1003 and 1004 of this title, the discharge of oil or oily mixture from a ship is prohibited unless—

(a) the ship is proceeding en route; and

(b) the instantaneous rate of discharge of oil content does not exceed sixty liters per mile, and

(c)(1) for a ship, other than a tanker—

(i) the oil content of the discharge is less than one hundred parts per one million parts of the mixture, and

(ii) the discharge is made as far as practicable from the nearest land;

(2) for a tanker, except discharges from machinery space bilges which shall be governed by the above provisions for ships other than tankers—

(i) the total quantity of oil discharged on a ballast voyage does not exceed the fifteen thousandths of the total cargo-carrying capacity, and

(ii) the tanker is more than fifty miles from the nearest land.

(Pub. L. 87-167, § 3, Aug. 30, 1961, 75 Stat. 402; Pub. L. 89-551, § 1(3), Sept. 1, 1966, 80 Stat. 373; Pub. L. 93-119, § 2(2), Oct. 4, 1973, 87 Stat. 425.)

EFFECTIVE DATE OF 1973 AMENDMENT

For effective date of amendment by Pub. L. 93-119, § 2(2), Oct. 4, 1973, 87 Stat. 425, see section 1016 of this title and note thereunder.

AMENDMENTS

1973—Pub. L. 93-119 substituted in introductory text "the discharge of oil or oily mixture from a ship is prohibited unless—" for "it shall be unlawful for any person to discharge oil or oily mixture from:".

Subsecs. (a) to (c). Pub. L. 93-119, in revising the text, substituted provisions of subsecs. (a) to (c) for former provisions which made unlawful the discharge of oil or oily mixture from: "(a) a tanker within any of the prohibited zones."; "(b) a ship other than a tanker, within any of the prohibited zones, except when the ship is proceeding to a port not provided with facilities adequate for the reception, without causing undue delay, it may discharge such residue and oily mixture as would remain for disposal if the bulk of the water had been separated from the mixture: Provided, such discharge is made as far as praticable from land." and "(c) a ship of twenty thousand tons gross tonnage or more, including a tanker, for which the building contract is placed on or after the effective date of this chapter."

Pub. L. 93-119 deleted second and third sentences which authorized discharge of oil or oily mixture outside the prohibited zones if in the opinion of the master special circumstances made it neither reasonable nor practicable to retain the oil or oily mixture and which required the reasons for the discharge to be reported in accordance with regulations prescribed by the Secretary.

1966—Subsec. (a). Pub. L. 89-551 struck out provision that, to constitute a prohibited discharge of oil or oily mixture, the discharge must foul the surface of the sea.

Subsec. (b). Pub. L. 89-551 substituted "oil or an oily mixture" for "oily ballast water or tank washings" as the description of the discharges which have to be made as far as practicable from land and excepted ships other than tankers from the prohibition of the subsection when the ship is proceeding to a port not provided with facilities adequate for the reception, without causing undue delay, and, in such cases, allowed discharge of whatever discharges and oily mixtures as would remain for disposal if the bulk of the water had been separated from the mixture.

Subsec. (c). Pub. L. 89-551 added subsec. (c).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1003, 1004, 1007, 1009 of this title.

§ 1003. Excepted discharges; securing safety of ship; prevention of damage to ship or cargo; saving life; damaged ship or unavoidable leakage

Section 1002 of this title does not apply to—

(a) the discharge of oil or oily mixture from a ship for the purpose of securing the safety of a ship, preventing damage to a ship or cargo, or saving life at sea; or

(b) the escape of oil, or of oily mixture, resulting from damage to a ship or unavoidable leakage, if all reasonable precautions have been taken after the occurrence of the damage or discovery of the leakage for the purpose of preventing or minimizing the escape.

(Pub. L. 87-167, § 4, Aug. 30, 1961, 75 Stat. 402; Pub. L. 89-551, § 1(4), Sept. 1, 1966, 80 Stat. 373; Pub. L. 93-119, § 2(3), Oct. 4, 1973, 87 Stat. 425.)

EFFECTIVE DATE OF 1973 AMENDMENT

For effective date of amendment by Pub. L. 93-119, § 2(3), Oct. 4, 1973, 87 Stat. 425, see section 1016 of this title and note thereunder.

AMENDMENTS

1973—Pub. L. 93-119, § 2(3)(A), substituted in the introductory clause "does" for "shall".

Subsec. (b). Pub. L. 93-119, § 2(3)(B), substituted a period for the semicolon.

Subsec. (c). Pub. L. 93-119, § 2(3)(C), repealed subsec. (c) which had made provisions of section 1002 of this title inapplicable to the discharge of residue arising from the purification or clarification of fuel oil or lu-

bricating oil, provided the discharge was made as far from land as practicable. See section 1002(c)(1)(ii), (2)(ii) of this title.

1966—Pub. L. 89-551 removed sediment which cannot be pumped from the cargo tanks of tankers by reason of its solidarity from the list of substances excepted from the prohibitions of section 1002 of this title and revised the excepted discharges to include discharges when made for securing safety when another ship is involved.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1002, 1007, 1008, 1009 of this title.

§ 1004. Excepted discharges; tanker ballast from cargo tank

Section 1002 of this title does not apply to the discharge of tanker ballast from a cargo tank which since the cargo was last carried therein, has been so cleaned that any effluent therefrom, if it were discharged from a stationary tanker into clean calm water on a clear day, would produce no visible traces of oil on the surface of the water.

(Pub. L. 87-167, § 5, Aug. 30, 1961, 75 Stat. 403; Pub. L. 89-551, § 1(5), Sept. 1, 1966, 80 Stat. 374; Pub. L. 93-119, § 2(4), Oct. 4, 1973, 87 Stat. 425.)

EFFECTIVE DATE OF 1973 AMENDMENT

For effective date of amendment by Pub. L. 93-119, § 2(4), Oct. 4, 1973, 87 Stat. 425, see section 1016 of this title and note thereunder.

AMENDMENTS

1973—Pub. L. 93-119 substituted "does not" for "shall not" and provisions which permitted discharge of tanker ballast from cargo tanker for former authorization of discharge from the bilges of a ship of an oily mixture containing no oil other than lubricating oil which had drained or leaked from machinery spaces.

1966—Pub. L. 89-551 removed the exception for the discharge from the bilges of oil mixtures during the period of twelve months after the United States accepts the convention and narrowed the exception for an oily mixture containing lubricating oil by limiting it to lubricating oil which has drained or leaked from machinery spaces.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1002, 1007, 1009 of this title.

§ 1004a. United States tankers; construction standards

(a) Tank arrangement and tank size limitation pursuant to provisions of annex C to the convention; building contracts placed on or after effective date

Every tanker to which this chapter applies and built in the United States and for which the building contract is placed on or after the effective date of this section shall be constructed in accordance with the provisions of annex C to the convention, relating to tank arrangement and limitation of tank size.

(b) Building contracts placed or keel laid before effective date

Every tanker to which this chapter applies and built in the United States and for which the building contract the keel of which is laid or which is at a similar state of construction, before the effective date of this section, shall, within two years after that date, comply with the provisions of annex C of the convention if—

(1) the delivery of the tanker is after January 1, 1977; or

(2) the delivery of the tanker is not later than January 1, 1977, and the building contract is placed after January 1, 1972, or in cases where no building contract has previously been placed, the keel is laid or the tanker is at a similar stage of construction, after June 30, 1972.

(c) Domestic tankers without certificate of compliance or exemption prohibited from engaging in domestic or foreign trade

A tanker required under this section to be constructed in accordance with annex C to the convention and so constructed shall carry on board a certificate issued by the Secretary attesting to that compliance. A tanker which is not required to be constructed in accordance with annex C to the convention shall carry on board a certificate to that effect issued by the Secretary, or if a tanker does comply with annex C though not required to do so, she may carry on board a certificate issued by the Secretary attesting to that compliance. Tankers under the flag of the United States are prohibited from engaging in domestic or foreign trade without an appropriate certificate issued under this section.

(d) Foreign tankers with foreign registry but without certificate of compliance; consultation with foreign government; denial of access

Certificates issued to foreign tankers pursuant to the convention by other nations party thereto shall be accepted by the Secretary as of the same force as certificates issued by him. If the Secretary has clear grounds for believing that a foreign tanker required under the convention to be constructed in accordance with annex C entering ports of the United States or using offshore terminals under United States control does not in fact comply with annex C, he may request the Secretary of State to seek consultation with the government with which the tanker is registered. If after consultation or otherwise, the Secretary is satisfied that such tanker does not comply with annex C, he may for this reason deny such tanker access to ports of the United States or to offshore terminals under United States control until such time as he is satisfied that the tanker has been brought into compliance.

(e) Foreign tankers without foreign registry; denial of access

If the Secretary is satisfied that any other foreign tanker which, if registered in a country party to the convention, would be required to be constructed in accordance with annex C, does not in fact comply with the standards relating to tank arrangement and limitation of tank size of annex C, then he may deny such tanker access to ports of the United States or to offshore terminals under United States control.

(Pub. L. 87-167, § 6, as added Pub. L. 93-119, § 2(5), Oct. 4, 1973, 87 Stat. 425.)

EFFECTIVE DATE

For effective date of amendment by Pub. L. 93-119, § 2(5), Oct. 4, 1973, 87 Stat. 425,

see section 1016 of this title and note thereunder.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1007, 1009, 1016 of this title.

§ 1005. Penalties for violations

(a) Criminal penalties for willful violations; separate violations

Any person who willfully discharges oil or oily mixture from a ship in violation of this chapter or the regulations thereunder shall be fined not more than $10,000 for each violation or imprisoned not more than one year, or both.

(b) Civil penalties for willful or negligent and other violations; separate violations

In addition to any other penalty prescribed by law any person who willfully or negligently discharges oil or oily mixture from a ship in violation of this chapter or any regulation thereunder shall be liable to a civil penalty of not more than $10,000 for each violation, and any person who otherwise violates this chapter or any regulation thereunder shall be liable to a civil penalty of not more than $5,000 for each violation.

(c) Liability of vessel; venue

A ship from which oil or oily mixture is discharged in violation of this chapter or any regulation thereunder is liable for any pecuniary penalty under this section and may be proceeded against in the district court of any district in which the vessel may be found.

(d) Administrative proceedings: assessment of civil penalties; remission, mitigation, or compromise of any penalty; notice and hearing; judicial proceedings: civil actions by Attorney General for collection of penalties; trial de novo

The Secretary may assess any civil penalty incurred under this chapter or any regulation thereunder and, in his discretion, remit, mitigate, or compromise any penalty. No penalty may be assessed unless the alleged violator shall have been given notice and the opportunity to be heard on the alleged violation. Upon any failure to pay a civil penalty assessed under this chapter, the Secretary may request the Attorney General to institute a civil action to collect the penalty. In hearing such action, the district court shall have authority to review the violation and the assessment of the civil penalty de novo.

(Pub. L. 87-167, § 7, formerly § 6, Aug. 30, 1961, 75 Stat. 403, renumbered and amended Pub. L. 93-119, § 2(6), Oct. 4, 1973, 87 Stat. 426.)

EFFECTIVE DATE OF 1973 AMENDMENT

For effective date of amendment by Pub. L. 93-119, § 2(6), Oct. 4, 1973, 87 Stat. 426, see section 1016 of this title and note thereunder.

AMENDMENTS

1973—Pub. L. 93-119, in revising the text, substituted provisions of subsecs. (a) to (d) for former provisions which made violations of this chapter misdemeanors punishable by a fine within the limits of $500 to $2,500 or imprisonment not exceeding one year, or both fine or imprisonment, for each offense, provided same monetary penalty for violations of a vessel, authorized the withholding of a vessel's clearance from a domestic port until payment of the penalty, and made the penalty a lien on the vessel recoverable by libel in rem in the federal district court wherein the ship may be.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1007, 1009 of this title.

§ 1006. Suspension or revocation of license of officers of offending vessels

The Coast Guard may, subject to the provisions of section 239 of title 46, suspend or revoke a license issued to the master or other licensed officer of any ship found violating the provisions of this chapter or the regulations issued pursuant thereto.

(Pub. L. 87-167, § 8, formerly § 7, Aug. 30, 1961, 75 Stat. 403, renumbered Pub. L. 93-119, § 2(7), Oct. 4, 1973, 87 Stat. 427.)

EFFECTIVE DATE OF 1973 AMENDMENT

For effective date of amendment by Pub. L. 93-119, § 2(7), Oct. 4, 1973, 87 Stat. 427, see section 1016 of this title and note thereunder.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1007 of this title.

§ 1007. Personnel for enforcement of provisions; arrest of offenders and procedure; ship fittings and equipment

(a) In the administration of sections 1001 to 1010 of this title, the Secretary may utilize by agreement, with or without reimbursement, law enforcement officers or other personnel, facilities, or equipment of other Federal agencies or the States. For the better enforcement of the provisions of said sections, officers of the Coast Guard and other persons employed by or acting under the authority of the Secretary shall have power and authority and it shall be their duty to swear out process and to arrest and take into custody, with or without process, any person who may violate any of said provisions: *Provided*, That no person shall be arrested without process for a violation not committed in the presence of some one of the aforesaid officials: *And provided further*, That whenever any arrest is made under the provisions of said sections the person so arrested shall be brought forthwith before a magistrate, judge, or court of the United States for examination of the offenses alleged against him; and such magistrate, judge, or court shall proceed in respect thereto as authorized by law in cases of crimes against the United States. Representatives of the Secretary and of the Coast Guard of the United States may go on board and inspect any ship as may be necessary for enforcement of this chapter.

(b) To implement article VII of the convention, ship fittings and equipment, and operating requirements thereof, shall be in accordance with regulations prescribed by the Secretary.

(Pub. L. 87-167, § 9, formerly § 8, Aug. 30, 1961, 75 Stat. 403; Pub. L. 90-578, title IV, § 402(b)(2), Oct. 17, 1968, 82 Stat. 1118, renumbered and

amended Pub. L. 93-119, § 2(8), Oct. 4, 1973, 87 Stat. 427.)

EFFECTIVE DATE OF 1973 AMENDMENT

For effective date of amendment by Pub. L. 93-119, § 2(8), Oct. 4, 1973, 87 Stat. 427, see section 1016 of this title and note thereunder.

AMENDMENTS

1973—Subsec. (a). Pub. L. 93-119, § 2(8)(A)-(C), substituted first sentence reading "In the administration of sections 1001 to 1010 of this title, the Secretary may utilize by agreement, with or without reimbursement, law enforcement officers or other personnel, facilities, or equipment of other Federal agencies or the States." for "In the administration of sections 1001 to 1011 of this title, the Secretary may make use of the organization, equipment, and agencies, including engineering, clerical, and other personnel, employed under his direction in the improvement of rivers and harbors and in the enforcement of laws for the preservation and protection of navigable waters,"; substituted in second sentence "For the better enforcement of the provisions of said sections," text reading "officers of the Coast Guard and other persons employed by or acting under the authority of the Secretary" for "the officers and agents of the United States in charge of river and harbor improvements and persons employed under them by authority of the Secretary, and officers and employees of the Bureau of Customs and the Coast Guard"; and substituted in last sentence "Representatives of the Secretary and of the Coast Guard of the United States may go on board and inspect any ship as may be necessary" for "Representatives of the Secretary and of the Bureau of Customs and Coast Guard of the United States may go on board and inspect any ship in a prohibited zone or in a port of the United States as may be necessary".

Subsec. (b). Pub. L. 93-119, § 2(8)(D), deleted after "Secretary" the words "of the Department in which the Coast Guard is operating" and provision for a civil penalty not in excess of $100, in addition to any other penalty prescribed by law, for violation of regulations. See section 1005 of this title.

CHANGE OF NAME

"Magistrate" was substituted for "commissioner" pursuant to Pub. L. 90-578. See chapter 43 (§ 631 et seq.) of Title 28, Judiciary and Judicial Procedure.

CROSS REFERENCES

Convention defined, see section 1001 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1009 of this title.

§ 1008. Oil record book

(a) Printing; regulations by Secretary

The Secretary shall have printed separate oil record books, containing instructions and spaces for inserting information in the form prescribed by the Convention, which shall be published in regulations prescribed by the Secretary.

(b) Book supplied without charge; inspection and surrender

If subject to this chapter, every ship using oil fuel and every tanker shall be provided, without charge, an oil record book which shall be carried on board. The provisions of section 483a of title 31 shall not apply. The ownership of the booklet shall remain in the United States Government. This book shall be available for inspection as provided in this chapter and for surrender to the United States Government pursuant to regulations of the Secretary.

(c) Operations requiring recordation

The oil record book shall be completed on each occasion, on a tank-to-tank basis, whenever any of the following operations take place in the ship:

(1) for tankers—

(i) loading of oil cargo;

(ii) transfer of oil cargo during voyage;

(iii) discharge of oil cargo;

(iv) ballasting of cargo tanks;

(v) cleaning of cargo tanks;

(vi) discharge of dirty ballast;

(vii) discharge of water from slop tanks;

(viii) disposal of residues;

(ix) discharge overboard of bilge water containing oil which has accumulated in machinery spaces while in port, and the routine discharge at sea of bilge water containing oil unless the latter has been entered in the appropriate logbook;

(2) for ships other than tankers—

(i) ballasting or cleaning of bunker fuel tanks;

(ii) discharge of dirty ballast or cleaning water from bunker fuel tanks;

(iii) disposal of residues;

(iv) discharge overboard of bilge water containing oil which has accumulated in machinery spaces while in port, and the routine discharge at sea of bilge water containing oil unless the latter has been entered in the appropriate logbook. In the event of such discharge or escape of oil or oily mixture as is referred to in section 1003 of this title, a statement shall be made in the oil record book of the circumstances of, and reason for, the discharge or escape.

(d) Entries; signatures

Each operation described in subsection (c) of this section shall be fully recorded without delay in the oil record book so that all the entries in the book appropriate to that operation are completed. Each page of the book shall be signed by the officer or officers in charge of the operations concerned and, when the ship is manned, by the master of the ship.

(e) Rules and regulations

Oil record books shall be kept in such manner and for such length of time as set forth in the regulations prescribed by the Secretary.

(Pub. L. 87-167, § 10, formerly § 9, Aug. 30, 1961, 75 Stat. 404; Pub. L. 89-551, § 1(6), Sept. 1, 1966, 80 Stat. 374, renumbered and amended Pub. L. 93-119, § 2(9), Oct. 4, 1973, 87 Stat. 427.)

EFFECTIVE DATE OF 1973 AMENDMENT

For effective date of amendment by Pub. L. 93-119, § 2(9), Oct. 4, 1973, 87 Stat. 427, see section 1016 of this title and note thereunder.

CODIFICATION

In subsec. (b), "section 483a of title 31" was substituted for "section 140 of title 5, United States Code" to reflect the reclassification of section 140 upon enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 378.

AMENDMENTS

1973—Subsec. (c). Pub. L. 93-119, § 2(9)(A), inserted in introductory text ", on a tank-to-tank basis,"; in revising first sentence, substituted cls. (1) for tankers and (2) for ships other than tankers for prior cls. (1) to (7), adding items (i)-(iii) and (ix) of cl. (1), incorporating in: item (iv) provisions of former cl. (1) relating to ballasting of and discharge of ballast from cargo tanks of tankers; item (v) provisions of former cl. (2) relating to cleaning of cargo tanks of tankers; item (vi) provisions of former cl. (1), substituting "dirty ballast" for "ballast"; item (vii) provisions of former cl. (3) relating to settling in slop tanks and discharge of water from tankers; item (viii) provisions of former cl. (4) relating to disposal from tankers during voyage, of bunker fuel tanks of ships other than tankers of oily residues from slop tanks or other sources; adding item (iv) of cl. (2), incorporating in: items (i) and (ii) provisions of former cl. (5) relating to ballasting, or cleaning during voyage of bunker fuel tanks of ships other than tankers; item (iii) provisions of former cl. (6) relating to disposal from ships other than tankers of oily residues from bunker fuel tanks or other sources; and deleting former cl. (7) relating to accidental or other exceptional discharges or escapes of oil from tankers or ships other than tankers; and deleted from last sentence reference to section 1002(c) of this title.

Subsec. (f). Pub. L. 93-119, § 2(9)(C), repealed subsec. (f) which provided for fines within limits of $500 to $1,000 for noncompliance with oil record books requirements and for such fines or imprisonment for term not exceeding six months, or both, for false or misleading entries in any material particular.

1966—Subsec. (a). Pub. L. 89-551 substituted provisions covering the printing of oil record books by the Secretary for provisions requiring that an oil record book be carried and that the circumstances surrounding a prohibited discharge be recorded.

Subsecs. (b) to (e). Pub. L. 89-551 added subsecs. (b) to (e). Former subsec. (b) amended by inserting reference to regulations prescribed under this chapter by the Secretary and, as so amended, redesignated as subsec. (f).

Subsec. (f). Pub. L. 89-551 redesignated former subsec. (b) as (f) and inserted a reference to regulations prescribed under this chapter by the Secretary.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1007, 1009 of this title.

§ 1009. Regulations

The Secretary may make regulations for the administration of sections 1002, 1003, 1004, 1004a, 1005, 1007, and 1008 of this title.

(Pub. L. 87-167, § 11, formerly § 10, Aug. 30, 1961, 75 Stat. 404; Pub. L. 89-551, § 1(7), Sept. 1, 1966, 80 Stat. 375, renumbered and amended Pub. L. 93-119, § 2(10), Oct. 4, 1973, 87 Stat. 428.)

EFFECTIVE DATE OF 1973 AMENDMENT

For effective date of amendment by Pub. L. 93-119, § 2(10), Oct. 4, 1973, 87 Stat. 428, see section 1016 of this title and note thereunder.

AMENDMENTS

1973—Pub. L. 93-119 included references to sections 1004a and 1005, substituted reference to section 1007 for reference to section 1007(a), and deleted reference to section 1011 of this title.

1966—Pub. L. 89-551 inserted reference to section 1011 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1007 of this title.

§ 1010. Boarding of ships; production of records; evidence of violations by foreign ships

(a) The Secretary may make regulations empowering such persons as may be designated to go on board any ship to which the convention applies, while the ship is within the territorial jurisdiction of the United States, and to require production of any records required to be kept in accordance with the convention.

(b) Should evidence be obtained that a ship registered in another country party to the convention has discharged oil in violation of the convention but outside the territorial sea of the United States, such evidence should be forwarded to the State Department for action in accordance with article X of the convention.

(Pub. L. 87-167, § 12, formerly § 11, Aug. 30, 1961, 75 Stat. 404, renumbered and amended Pub. L. 93-119, § 2(11), Oct. 4, 1973, 87 Stat. 428.)

EFFECTIVE DATE OF 1973 AMENDMENT

For effective date of amendment by Pub. L. 93-119, § 2(11), Oct. 4, 1973, 87 Stat. 428, see section 1016 of this title and note thereunder.

AMENDMENTS

1973—Subsec. (b). Pub. L. 93-119 substituted "in violation of the convention but outside the territorial sea of the United States" for "in any prohibited zone".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1007 of this title.

§ 1011. Prohibited zones; publication of reduction or extension of zones

(a) All sea areas within fifty miles from the nearest land shall be prohibited zones, subject to extensions or reduction effectuated in accordance with the terms of the Convention, which shall be published in regulations prescribed by the Secretary.

(b) With respect to the reduction or extension of the zones described under the terms of the Convention, the Secretary shall give notice thereof by publication of such information in Notices to Mariners issued by the United States Coast Guard and United States Navy.

(Pub. L. 87-167, § 12, Aug. 30, 1961, 75 Stat. 404; Pub. L. 89-551, § 1(8), Sept. 1, 1966, 80 Stat. 375.)

REPEAL

For effective date of repeal by Pub. L. 93-119, § 2(12), Oct. 4, 1973, 87 Stat. 428, see section 1016 of this title and note thereunder.

AMENDMENTS

1966—Pub. L. 89-551 substituted a general reference to extensions or reductions of sea areas within 50 miles from land effectuated in accordance with the terms of the Convention to be published in regulations by the Secretary for detailed descriptions of areas excepted from the prohibited zones.

§ 1012. Repealed. Pub. L. 89-551, § 1(9), Sept. 1, 1966, 80 Stat. 375

Section, Pub. L. 87-167, § 13, Aug. 30, 1961, 75 Stat. 405, set out the form and required entries for the oil record book. See now section 1008 of this title.

§ 1013. Authorization of appropriations

There is authorized to be appropriated such sums as may be necessary to carry out the provisions of this chapter.

(Pub. L. 87-167, § 13, formerly § 14, Aug. 30, 1961, 75 Stat. 407, renumbered Pub. L. 93-119, § 2(13), Oct. 4, 1973, 87 Stat. 428.)

EFFECTIVE DATE OF 1973 AMENDMENT

For effective date of amendment by Pub. L. 93-119, § 2(13), Oct. 4, 1973, 87 Stat. 428, see section 1016 of this title and note thereunder.

§ 1014. Effect on other laws

Nothing in this chapter or in regulations issued hereunder shall be construed to modify or amend the provisions of section 1321 of this title or section 89 of title 14.

(Pub. L. 87-167, § 15, formerly § 16, Aug. 30, 1961, 75 Stat. 407, renumbered and amended Pub. L. 93-119, § 2(14), Oct. 4, 1973, 87 Stat. 428.)

EFFECTIVE DATE OF 1973 AMENDMENT

For effective date of amendment by Pub. L. 93-119, § 2(14), Oct. 4, 1973, 87 Stat. 428, see section 1016 of this title and note thereunder.

AMENDMENTS

1973—Pub. L. 93-119 substituted "provisions of section 1321 of this title" for "provisions of the Oil Pollution Act, 1924,".

§ 1015. Effective date

(a) This chapter shall become effective upon the date of its enactment or upon the date the amended Convention becomes effective as to the United States, whichever is the later date.

(b) Any rights or liabilities existing on the effective date of this chapter shall not be affected by the enactment of this chapter. Any procedures or rules or regulations in effect on the effective date of this chapter shall remain in effect until modified or superseded under the authority of this chapter. Any reference in any other law or rule or regulation prescribed pursuant to law to the "International Convention for the Prevention of the Pollution of the Sea by Oil, 1954," shall be deemed to be a reference to that Convention as revised by the "Amendments of the International Convention for the Prevention of Pollution of the Sea by Oil, 1954," which were adopted by a Conference of Contracting Governments convened at London on April 11, 1962. Any reference in any other law or rule or regulation prescribed pursuant to law to the "Oil Pollution Act, 1961," approved August 30, 1961, [33 U.S.C. 1001 et seq.], shall be deemed to be a reference to that Act as amended by this Act.

(Pub. L. 87-167, § 17, Aug. 30, 1961, 75 Stat. 407; Pub. L. 89-551, § 1(10), Sept. 1, 1966, 80 Stat. 375.)

REPEAL

For effective date of repeal by Pub. L. 93-119, § 2(15), Oct. 4, 1973, 87 Stat. 428, see section 1016 of this title and note thereunder.

REFERENCES IN TEXT

The "date of its enactment" referred to in subsec. (a) means the enactment of Pub. L. 87-167, which was approved on Aug. 30, 1961.

The Oil Pollution Act, 1961, referred to in subsec. (b), is Pub. L. 87-167, Aug. 30, 1961, 75 Stat. 402, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables volume.

This Act, referred to in subsec. (b) probably means Pub. L. 89-551 which amended Pub. L. 87-167 and conformed it to the 1962 amendments of the 1954 Convention.

AMENDMENTS

1966—Subsec. (a). Pub. L. 89-551 denominated existing provisions as subsec. (a) and in subsec. (a) as so denominated substituted "upon the date the amended Convention becomes effective as to the United States" for "upon the date the United States becomes a party to the convention".

Subsec. (b). Pub. L. 89-551 added subsec. (b).

§ 1016. Effective date of 1973 Amendments

(a) General provision

Except as provided in subsection (c) of this section, this amending Act is effective upon the date of its enactment or upon the date amendments to the International Convention for the Prevention of Pollution of the Sea by Oil, 1954, as amended, adopted by the Assembly of the Inter-Governmental Maritime Consultative Organization on October 21, 1969, October 12, 1971, and October 15, 1971, are ratified or accepted with the advice and consent of the Senate of the United States, whichever is the later date.

(b) Savings provision

Any rights or liabilities existing on the effective date of this Act shall not be affected by the enactment of this Act. Any regulations or procedures promulgated or effected pursuant to this chapter, as previously amended, remain in effect until modified or superseded under the authority of this chapter, as amended by this Act. Any reference to the International Convention for the Prevention of Pollution of the Sea by Oil, 1954, in any law or regulation shall be deemed to be a reference to the convention as revised or amended by the latest amendments in respect of which the United States has deposited an instrument of ratification or acceptance.

(c) Special provision

Notwithstanding the foregoing provisions of this section, subsections (d) and (e) of section 1004a of this title, shall be effective upon the date of their enactment or upon the date the International Convention for the Prevention of Pollution of the Sea by Oil, 1954, as amended by the amendments adopted by the Assembly of the Inter-Governmental Marine Consultative Organization on October 15, 1971, enters into force pursuant to article XVI of that convention, as amended, whichever is later; and no authority shall be exercised pursuant to article VI bis (3) and (4) of such amendments prior to the effective date of such subsections.

(Pub. L. 93-119, § 3, Oct. 4, 1973, 87 Stat. 428.)

AMENDMENTS TO CONVENTION

The Senate has confirmed the Oct. 21, 1969 amendment to the International Convention for the Prevention of Pollution of the Sea by Oil, 1954, but no action has been taken on the Oct. 12, 1971 and the Oct. 15, 1971 amendments.

REFERENCES IN TEXT

This amending Act and this Act, referred to in subsecs. (a) and (b) respectively, means Pub. L. 93-119, Oct. 4, 1973, 87 Stat. 424, known as the Oil Pollution Act Amendments of 1973, which enacted this section and section 1004a of this title, amended sections 1001 to 1004, 1005, 1007 to 1010, and 1014 of this title, and repealed sections 1011 and 1015 of this title. For complete classification of this Act to the Code, see Short Title of 1973 Amendment note set out under section 1001 of this title and Tables volume.

Date of its enactment, referred to in subsec. (a), means date of enactment of Pub. L. 93-119, which was Oct. 4, 1973.

Date of their enactment, referred to in subsec. (c), means the date of enactment of section 1004a(d) and (e) of this title, as added by section 2(5) of Pub. L. 93-119, which was Oct. 4, 1973.

CHAPTER 21—INTERNATIONAL REGULATIONS FOR PREVENTING COLLISIONS AT SEA

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1051. Regulations for preventing collisions at sea; proclamation by President; effective date; publication; applicability.
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1053. Designation of regulations.

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(f) Meaning of signals.
(g) Signals not to be taken as distress signals.
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1069. Fishing vessels; trawling vessels; fishing vessels by day (Rule 9).
(a) Fishing vessels not engaged in fishing.
(b) Vessels engaged in fishing under way or at anchor.
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(e) Fishing and trawling vessels when making way through the water.
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(g) Additional lights.
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(a) Vessels under way.
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1071. Vessels and seaplanes at anchor or aground (Rule 11).
(a) Vessel of less than 150 feet in length.
(b) Vessel of more than 150 feet in length.
(c) Period between sunrise and sunset.
(d) Vessel engaged in laying or picking up submarine cable or navigation marks, or surveying or underwater operations.
(e) Vessel aground.
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1072. Additional lights and signals when necessary (Rule 12).
1073. Ships of war, convoy vessels, fishing vessels, and seaplanes on water; naval and military vessels and seaplanes of special construction (Rule 13).
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1087. Power-driven vessels in narrow channels; nearing bends therein (Rule 25).
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1088. Right of way of fishing vessels; obstruction of fairways (Rule 26).
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1090. Sound signals indicating course (Rule 28).
(a) Meaning of blasts.
(b) Doubt as to action of other vessel.
(c) Simultaneous operation of whistle and visual signals.
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1091. Usual additional precautions required generally (Rule 29).
1092. Reservation of rules for harbours and inland navigation (Rule 30).
1093. Distress signals (Rule 31).

SUBCHAPTER VIII—ANNEX TO RULES

1094. Recommendations on the use of radar information as an aid to avoiding collisions at sea.

PRIOR PROVISIONS

The original rules for the prevention of collisions on the water were contained in R.S. § 4233, which consisted of 26 rules, R.S. § 4412, which authorized the board of supervising inspectors to establish such regulations to be observed by all steam vessels in passing each other, as they should from time to time deem necessary for safety, and provided that copies of such regulations should be furnished to all of such vessels, to be kept posted up in conspicuous places in such vessels, and R.S. § 4413, which prescribed a penalty for neglecting or willfully refusing to observe the regulations established pursuant to said section 4412.

The rules prescribed by R.S. § 4233 were superseded as to navigation on the high seas and in all coast waters of the United States, except such as were otherwise provided for, by the adoption of the "Revised International Regulations" by act March 3, 1885, ch. 354, 23 Stat. 438, which rules were superseded by the passage and adoption of act Aug. 19, 1890, ch. 802, 26 Stat. 322, section 1 of which enacted a set of regulations for preventing collisions at sea to be followed by all public and private vessels of the United States upon the high seas and in all waters connected therewith, navigable by seagoing vessels.

Act Aug. 19, 1890, ch. 802, § 1, consisted of 31 articles. Section 2 of act Aug. 19, 1890, ch. 802, repealed all laws and parts of laws inconsistent with the regulations for preventing collisions at sea for the navigation of all public and private vessels of the United States upon the high seas, and in all waters connected therewith navigable by seagoing vessels, prescribed by section 1 of that act.

The rules prescribed by R.S. § 4233, were further superseded as to navigation on the Great Lakes and their connecting and tributary waters as far east as Montreal by act Feb. 8, 1895, ch. 64, 28 Stat. 645, section 1 of which enacted rules for preventing collisions to be followed in the navigation of all public and private vessels of the United States upon the Great Lakes and their connecting and tributary waters as far east as Montreal. Section 1 contained 28 articles. Section 2 of the act Feb. 8, 1895, ch. 64, prescribed a fine for violations of the act. Section 3 of the act Feb. 8, 1895, ch. 64, gave the Secretary of the Treasury authority to establish all necessary regulations not inconsistent with the act, necessary to carry the act into effect, and gave the Board of Supervising Inspectors of the United States authority to establish such regulations to be observed by all steam vessels in passing each other, not inconsistent with the act, as they should from time to time deem necessary, and provided that the regulations so adopted, when approved by the Secretary of the Treasury, should have the force of law. Section 4 of the act Feb. 8, 1895, ch. 64, repealed all laws or parts of laws, so far as applicable to the navigation of the Great Lakes and their connecting and tributary waters as far east as Montreal, inconsistent with the rules promulgated by the act.

The rules prescribed by R.S. § 4233, and by R.S. §§ 4412, 4414, and the regulations pursuant thereto, were required to be followed on the harbors, rivers, and inland waters of the United States, and the provisions of said sections were made special rules, duly made by local authority, relative to the navigation of harbors, rivers, and inland waters, as provided for by article 30 of the act Aug. 19, 1890, ch. 802, § 1, by act Feb. 19, 1895, ch. 102, § 1, 28 Stat. 672. Section 2 of the act Feb. 19, 1895, ch. 102, authorized the Secretary of the Treasury to designate and define by the suitable bearing or range with light houses, light vessels, buoys, or coast objects, the lines dividing the high seas from rivers, harbors, and inland waters. Section 3 of the act Feb. 19, 1895, ch. 102, required collectors or other chief officers of the customs to require sail vessels to be furnished with proper signal lights, and prescribed a penalty to be assessed against vessels navigated without complying with the statutes of the United States, or the regulations lawfully made thereunder. Section 4 of the act Feb. 19, 1895, ch. 102, provided that the words "inland waters" should not be held to include the Great Lakes and their connecting and tributary waters as far east as Montreal, and provided that the act should not modify or affect the provisions of act Feb. 8, 1895, ch. 64, which was the act prescribing rules for preventing collisions to be followed in the navigation of all public and private vessels upon the Great Lakes and their connecting and tributary waters as far east as Montreal.

The rules prescribed by R.S. § 4233, were further superseded as to the navigation of all harbors, rivers, and inland waters of the United States, except the Great Lakes and their connecting and tributary waters as far east as Montreal and the Red River of the North and rivers emptying into the Gulf of Mexico and their tributaries, by act June 7, 1897, ch. 4, 30 Stat. 96, section 1 of which enacted a set of regulations for preventing collisions, to be followed by all vessels navigating all harbors, rivers, and inland waters of the United States, except the Great Lakes and their connecting and tributary waters as far east as Montreal and the Red River of the North and rivers emptying into the Gulf of Mexico and their tributaries. Said section 1 consisted of 31 articles. Section 2 of the act June 7, 1897, ch. 4, authorized the supervising inspectors of steam-vessels and the Supervising Inspector-General to establish rules to be observed by steam vessels in passing each other and as to the lights to be carried by ferry-boats and by barges and

canal-boats, when in tow of steam-vessels, not inconsistent with the provisions of the act, such rules, when approved by the Secretary of the Treasury, to be special rules duly made by local authority, as provided for by article 30 of the act Aug. 19, 1890, ch. 802, § 1 which article provided that nothing in the rules contained in that act should interfere with the operation of special rules, duly made by local authority, relative to the navigation of any harbor, river, or inland waters. Section 3 of the act June 7, 1897, ch. 4, prescribed a penalty for violations of the provisions of the act or the regulations established pursuant to section 2. Section 4 of the act June 7, 1897, ch. 4, also prescribed a penalty to be assessed against vessels navigated without compliance with the provisions of the act. Section 5 of the act June 7, 1897, ch. 4, repealed R.S. §§ 4233, 4412 (with the regulations made in pursuance thereof, except the rules and regulations for the government of pilots of steamers navigating the Red River of the North and rivers emptying into the Gulf of Mexico and their tributaries, and except the rules for the Great Lakes and their connecting and tributary waters as far east as Montreal), § 4413, act March 3, 1893, ch. 202, 27 Stat. 557, which amended R.S. § 4233, act Feb. 19, 1895, ch. 102, §§ 1, 3, and act March 3, 1897, ch. 389, §§ 5, 12, 13, 29 Stat. 689, 690, and all amendments thereto insofar as the harbors, rivers, and inland waters of the United States (except the Great Lakes and their connecting and tributary waters as far east as Montreal and the Red River of the North and rivers emptying into the Gulf of Mexico, and their tributaries) were concerned.

This legislation resulted in the following situation: Navigation on the high seas was governed by act Aug. 19, 1890, ch. 802, with its amendatory and supplementary acts, which was superseded by act Oct. 11, 1951, ch. 495, formerly set forth in chapter 2 of this title; navigation on all harbors, rivers, and inland waters of the United States, except the Great Lakes and their connecting and tributary waters as far east as Montreal and the Red River of the North and rivers emptying into the Gulf of Mexico and their tributaries, is governed by act June 7, 1897, ch. 4, as amended, set forth in chapter 3 of this title; navigation on the Great Lakes and their connecting and tributary waters as far east as Montreal is governed by act Feb. 8, 1895, ch. 64, set forth in section 301 et seq. of this title; and navigation on the Red River of the North and rivers emptying into the Gulf of Mexico and their tributaries is governed by R.S. § 4233, as amended and supplemented, set forth in section 301 et seq. of this title.

See also Codification notes to sections 154, 241, and 301 of this title.

INTERNATIONAL CONVENTION FOR SAFETY OF LIFE AT SEA, 1948

The convention, known as the International Convention for Safety of Life at Sea, was signed at London on June 10, 1948, and was ratified by the United States on April 20, 1949 (see Senate Report No. 838, Sept. 26, 1951, to accompany H.R. 5013, 82nd Cong.). The "International Regulations for Preventing Collisions at Sea, 1948", approved by the 1948 London conference, were adopted by section 6 of act Oct. 11, 1951, and were classified to section 144 et seq. of this title.

SUBCHAPTER I—GENERAL PROVISIONS

§ 1051. Regulations for preventing collisions at sea; proclamation by President; effective date; publication; applicability

The President is authorized to proclaim the regulations set forth in sections 1061 to 1094 of this title for preventing collisions involving waterborne craft upon the high seas, and in all waters connected therewith. The effective date of such proclamation shall be not earlier than the date fixed by the Inter-Governmental Maritime Consultative Organization for application of such regulations by Governments which have agreed to accept them. Such proclamation, together with the regulations, shall be published in the Federal Register and after the effective date specified in such proclamation such regulations shall have effect as if enacted by statute and shall be followed by all public and private vessels of the United States and by all aircraft of United States registry to the extent therein made applicable. Such regulations shall not apply to the harbors, rivers, and other inland waters of the United States; to the Great Lakes of North America and their connecting and tributary waters as far east as the lower exit of the Saint Lambert Lock at Montreal in the Province of Quebec, Canada; to the Red River of the North and the rivers emptying into the Gulf of Mexico and their tributaries; nor with respect to aircraft in any territorial waters of the United States.

(Pub. L. 88-131, § 1, Sept. 24, 1963, 77 Stat. 194.)

PRIOR PROVISIONS

Regulations for Preventing Collisions at Sea, 1948, approved by the International Conference on Safety of Life at Sea, 1948, covering substantially the same subject matter included under these rules, were set out as sections 143 to 147d of this title.

EFFECTIVE DATE OF REGULATIONS

Section 4 of Pub. L. 88-131, which enacted sections 1053 and 1061 to 1094 of this title, was made effective Sept. 1, 1965, by Proc. No. 3632 set out below.

REPEALS; EFFECTIVE DATE; REFERENCES IN OTHER LAWS TO ACT OCTOBER 11, 1951

Section 3 of Pub. L. 88-131 provided that: "On the date the regulations authorized to be proclaimed under section 1 hereof [section 1051 of this title] take effect, the Act of October 11, 1951 (65 Stat. 406) [sections 143 to 143b, 144, 145 to 145n, 146 to 146k, and 147 to 147d of this title], is repealed and the regulations proclaimed thereunder shall be of no further force or effect. Until such date, nothing herein shall in any way limit, supersede, or repeal any regulations for the prevention of collisions which have heretofore been prescribed by statute, regulation, or rule. Any reference in any other law to the Act of October 11, 1951, (65 Stat. 406), or the regulations proclaimed thereunder, shall be deemed a reference to this Act [this chapter] and the regulations proclaimed hereunder."

EX. ORD. NO. 11239. ENFORCEMENT OF CONVENTION FOR SAFETY OF LIFE AT SEA, 1960

Ex. Ord. No. 11239, July 31, 1965, 30 F.R. 9671, as amended by Ex. Ord. No. 11382, Nov. 28, 1967, 32 F.R. 16247 provided:

WHEREAS under Article I of the International Convention for Safety of Life at Sea, signed at London on June 17, 1960, ratified by the United States of America, and proclaimed by the President on March 24, 1965 (TIAS 5780), hereinafter sometimes referred to as the Convention, the Government of the United States of America, together with the governments of the other countries which have become parties to the Convention, undertakes to give effect to the provisions of the Convention and of the Regulations annexed thereto, to promulgate all laws, decrees, orders, and regulations, and to take all other steps which may be necessary to give the Convention full and complete effect, so as to insure that, from the point of view of safety of life, a ship is fit for the service for which it is intended; and

WHEREAS it is expedient and necessary, in order that the Government of the United States of America may give full and complete effect to the Convention, that several departments and agencies of the Execu-

tive Branch of the Government perform functions and duties thereunder; and

WHEREAS, in accordance with Article XI thereof, the Convention came into force on May 26, 1965:

NOW, THEREFORE, by virtue of the authority vested in me by Section 301 of Title 3 of the United States Code and as President of the United States of America, it is ordered as follows:

SECTION 1. The Secretary of State, the Secretary of Transportation (acting through the Coast Guard), the Secretary of Commerce (acting through the Weather Bureau), and the Federal Communications Commission, respectively, are hereby directed, in relation to the fulfillment of the obligations undertaken by the Government of the United States of America under the Convention, to perform the functions and duties therein prescribed and undertaken which appertain to the functions and duties which they severally are now authorized or directed by law to perform. Each of the Secretaries and the Commission shall cooperate and assist the others in carrying out the duties imposed by the Convention and by this order.

SEC. 2. The Secretary of Transportation (acting through the Coast Guard), or such other agency as may be authorized by law so to do, shall issue certificates as required by the Convention, and in any case in which a certificate is to include matter which appertains to the functions and duties directed or authorized by law to be performed by the head of any department or agency other than the head of the issuing agency, the head of the issuing agency shall first ascertain from the head of the other department or agency his decision with respect to such matter, and such decision shall be final and binding.

SEC. 3. In the performance of functions and duties described in Sections 1 and 2 of this order, the Secretary of Transportation (acting through the Coast Guard) may avail himself of the services of the American Bureau of Shipping so long as that Bureau is operated in compliance with Section 25 of the Act of June 5, 1920, as amended (46 U.S.C. 881), and may make all necessary provisions for the performance by the Bureau of specified duties undertaken under the Convention and to permit the Bureau to issue cargo ship safety construction certificates to those cargo vessels found to be in compliance with the Convention, which are classed by the Bureau. The Secretary of Transportation (acting through the Coast Guard) shall establish all necessary regulations required to carry out in the most effective manner the provisions of the Convention.

SEC. 4. Whenever the Coast Guard operates as a service in the Navy, the functions to be performed by the Secretary of Transportation (acting through the Coast Guard) under this order shall vest in and be performed by the Secretary of the Navy (acting through the Coast Guard).

SEC. 5. (a) This order supersedes Executive Order No. 10402 of October 30, 1952, entitled "Enforcement of the Convention for Safety of Life at Sea, 1948," to the extent that the International Convention for Safety of Life at Sea signed at London on June 17, 1960, replaces and abrogates the International Convention for Safety of Life at Sea signed at London on June 10, 1948.

(b) Executive Order No. 7548 of February 5, 1937, entitled "Enforcement of the Convention for Safety of Life at Sea, 1929," is hereby revoked.

LYNDON B. JOHNSON.

EX. ORD. NO. 11964. IMPLEMENTATION OF CONVENTION ON THE INTERNATIONAL REGULATIONS FOR PREVENTING COLLISIONS AT SEA, 1972

Ex. Ord. No. 11964, Jan. 19, 1977, 42 F.R. 4327, provided:

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, including Section 301 of Title 3 of the United States Code, and as President of the United States of America and Commander-in-Chief of the Armed Forces, in order to provide for the coming into force on July 15, 1977, of the Convention on the International Regulations for Preventing Collisions at Sea, 1972 (Senate Executive W, 93d Cong., 1st Sess.), it is hereby ordered as follows:

SECTION 1. (a) With respect to vessels of special construction or purpose, the Secretary of the Navy, for vessels of the Navy, and the Secretary of the Department in which the Coast Guard is operating, for all other vessels, shall determine and certify, in accord with Rule I of the International Regulations for Preventing Collisions at Sea, 1972, hereinafter referred to as the International Regulations, as to which such vessels cannot comply fully with the provisions of any of the International Regulations with respect to the number, positions, range or arc of visibility of lights or shapes, as well as to the disposition and characteristics of sound-signalling appliances, without interfering with the special function of the vessel.

(b) With respect to vessels for which a certification is issued, the Secretary issuing the certification shall certify as to such other provisions which are the closest possible compliance by that vessel with the International Regulations.

(c) Notice of any certification issued shall be published in the FEDERAL REGISTER.

SEC. 2. The Secretary of the Navy is authorized to promulgate special rules with respect to additional station or signal lights or whistle signals for ships of war or vessels proceeding under convoy, and the Secretary of the Department in which the Coast Guard is operating is authorized, to the extent permitted by law, including the provisions of Title 14 of the United States Code, to promulgate special rules with respect to additional station or signal lights for fishing vessels engaged in fishing as a fleet. In accord with Rule I of the International Regulations, the additional station or signal lights or whistle signals contained in the special rules shall be, as far as possible, such as they cannot be mistaken for any light or signal authorized by the International Regulations. Notice of such special rules for fishing vessels shall be published in the FEDERAL REGISTER.

SEC. 3. The Secretary of the Navy, for vessels of the Navy, and the Secretary of the Department in which the Coast Guard is operating, for all other vessels, are authorized to exempt, in accord with Rule 38 of the International Regulations, any vessel or class of vessels, the keel of which is laid, or which is at a corresponding stage of construction, before July 15, 1977, from full compliance with the International Regulations, provided that such vessel or class of vessels complies with the requirements of the International Regulations for Preventing Collisions at Sea, 1960. Notice of any exemption granted shall be published in the FEDERAL REGISTER.

SEC. 4. The Secretary of the Department in which the Coast Guard is operating is authorized, to the extent permitted by law, to promulgate such rules and regulations that are necessary to implement the provisions of the Convention and International Regulations. He shall cause to be published in the FEDERAL REGISTER any implementing regulations or interpretive rulings promulgated pursuant to this Order, and shall promptly publish in the FEDERAL REGISTER the full text of the International Regulations.

GERALD R. FORD.

PROC. NO. 3632. ENABLING PROCLAMATION

Proc. No. 3632, Dec. 29, 1964, 29 F.R. 19167, provided:

WHEREAS certain regulations designated as Regulations for Preventing Collisions at Sea, 1960, were approved by the International Conference on Safety of Life at Sea, 1960, held at London from May 17 to June 17, 1960; and

WHEREAS the Act of September 24, 1963 (Public Law 88-131, 77 Stat. 194) [this chapter], hereinafter referred to as the Act, authorizes the President of the United States of America to proclaim those regulations, which are set forth in Section 4 of the Act [sections 1053, 1061 to 1094 of this title], and to specify

the effective date thereof, the regulations to have effect (after the effective date thus specified), as if enacted by statute; and

WHEREAS on March 12, 1964, the Government of the United States of America communicated to the Inter-Governmental Maritime Consultative Organization, as depository agency, its acceptance of the regulations; and

WHEREAS the Government of the United States of America has been notified by the Inter-Governmental Maritime Consultative Organization, as depository agency, that substantial unanimity has been reached as to the acceptance by interested countries, and that it has fixed September 1, 1965, as the date on and after which the regulations shall be applied by the governments which have accepted them; and

WHEREAS the Act [this chapter] provides that the Regulations for Preventing Collisions at Sea, 1948 (65 Stat. 406), as proclaimed and made effective as of January 1, 1954, by Proclamation No. 3030 of August 15, 1953, shall be of no further force or effect after the effective date proclaimed for the Regulations for Preventing Collisions at Sea, 1960.

NOW, THEREFORE, I, LYNDON B. JOHNSON, President of the United States of America, under and by virtue of the authority vested in me by the Act, do hereby proclaim the Regulations for Preventing Collisions at Sea, 1960, as set forth in Section 4 of the Act [sections 1053, 1061 to 1094 of this title], which regulations are attached hereto and made a part hereof, and do hereby specify that the effective date thereof shall be September 1, 1965.

Proclamation No. 3030 is superseded effective as of September 1, 1965.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

DONE at the City of Washington this twenty-ninth day of December in the year of our Lord nineteen hundred and sixty-four, and of the Independence of the United States of America the one hundred and eighty-ninth.

[SEAL]

LYNDON B. JOHNSON.

§ 1052. Navy and Coast Guard vessels; exemption regarding lights; feasible conformity to requirements; publication; effective date

Any requirement of such regulations in respect of the number, position, range of visibility, or arc of visibility of the lights required to be displayed by vessels shall not apply to any vessel of the Navy or of the Coast Guard whenever the Secretary of the Navy or the Secretary of Transportation, in the case of Coast Guard vessels operating under the Department of Transportation, or such official as either may designate, shall find or certify that, by reason of special construction, it is not possible for such vessel or class of vessels to comply with such regulations. The lights of any such exempted vessel or class of vessels, however, shall conform as closely to the requirements of the applicable regulations as the Secretary or such official shall find or certify to be feasible. Notice of such findings or certification and of the character and position of the lights prescribed to be displayed on such exempted vessel or class of vessels shall be published in the Federal Register and in the Notice to Mariners and, after the effective date specified in such notice, shall have effect as part of such regulations.

(Pub. L. 88–131, § 2, Sept. 24, 1963, 77 Stat. 194; Pub. L. 89–670, § 6(b)(1), Oct. 15, 1966, 80 Stat. 938.)

TRANSFER OF FUNCTIONS

Secretary of Transportation and Department of Transportation were substituted for Secretary of the Treasury and Department of the Treasury, respectively, pursuant to section 6(b)(1) of Pub. L. 89–670, which transferred the Coast Guard to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury to the Secretary of Transportation. Section 6(b)(2) of Pub. L. 89–670, however, provided that notwithstanding such transfer of functions, the Coast Guard shall operate as part of the Navy in time of war or when the President directs as provided in section 3 of Title 14, Coast Guard. See section 1655 of Title 49, Transportation.

§ 1053. Designation of regulations

The regulations authorized to be proclaimed under section 1051 of this title are the Regulations for Preventing Collisions at Sea, 1960, approved by the International Conference on Safety of Life at Sea, 1960, held at London from May 17, 1960, to June 17, 1960, and are set out in sections 1061 to 1094 of this title.

(Pub. L. 88–131, § 4, Sept. 24, 1963, 77 Stat. 195.)

CODIFICATION

Section was enacted as part of section 4 of Pub. L. 88–131, which enacted provisions set out as sections 1053, 1075, 1078, and 1094 of this title, and rules 1 to 31, which are classified to sections 1061, 1062 to 1074, 1076, 1077, 1079 to 1089, 1090, and 1091 to 1093 of this title.

In the text of the original, "and are set out in sections 1061 to 1094 of this title" read "as follows".

EFFECTIVE DATE

Section 4 of Pub. L. 88–131 effective Sept. 1, 1965, see Proc. No. 3632, Dec. 29, 1964, 29 F.R. 19167, set out as a note under section 1051 of this title.

SUBCHAPTER II—PRELIMINARY AND DEFINITIONS

§ 1061. Scope of these Rules (Rule 1)

(a) Watercraft to which applicable

These Rules shall be followed by all vessels and seaplanes upon the high seas and in all waters connected therewith navigable by seagoing vessels, except as provided in section 1092 of this title. Where, as a result of their special construction, it is not possible for seaplanes to comply fully with the provisions of Rules specifying the carrying of lights and shapes, these provisions shall be followed as closely as circumstances permit.

(b) Provisions concerning lights; conditions governing compliance

The rules concerning lights shall be complied with in all weathers from sunset to sunrise, and during such times no other lights shall be exhibited, except such lights as cannot be mistaken for the prescribed lights or do not impair their visibility or distinctive character, or interfere with the keeping of a proper lookout. The lights prescribed by these Rules may also be exhibited from sunrise to sunset in restricted visibility and in all other circumstances when it is deemed necessary.

(c) Definitions

In the following Rules, except where the context otherwise requires—

(i) the word "vessel" includes every description of water craft, other than a seaplane on the water, used or capable of being used as a means of transportation on water;

(ii) the word "seaplane" includes a flying boat and any other aircraft designed to manoeuvre on the water;

(iii) the term "power-driven vessel" means any vessel propelled by machinery;

(iv) every power-driven vessel which is under sail and not under power is to be considered a sailing vessel, and every vessel under power, whether under sail or not, is to be considered a power-driven vessel;

(v) a vessel or seaplane on the water is "under way" when she is not at anchor, or made fast to the shore, or aground;

(vi) the term "height above the hull" means height above the uppermost continuous deck;

(vii) the length and breadth of a vessel shall be her length overall and largest breadth;

(viii) the length and span of a seaplane shall be its maximum length and span as shown in its certificate of airworthiness, or as determined by measurement in the absence of such certificate;

(ix) vessels shall be deemed to be in sight of one another only when one can be observed visually from the other;

(x) the word "visible", when applied to lights, means visible on a dark night with a clear atmosphere;

(xi) the term "short blast" means a blast of about one second's duration;

(xii) the term "prolonged blast" means a blast of from four to six seconds' duration;

(xiii) the word "whistle" means any appliance capable of producing the prescribed short and prolonged blasts;

(xiv) the term "engaged in fishing" means fishing with nets, lines or trawls but does not including[1] fishing with trolling lines.

(Pub. L. 88-131, § 4, Sept. 24, 1963, 77 Stat. 195.)

REFERENCES IN TEXT

These Rules and Rules, referred to in text, mean rules 1 to 31 as promulgated by section 4 of Pub. L. 88-131, which are classified to sections 1061, 1062 to 1074, 1076, 1077, 1079 to 1089, 1090, and 1091 to 1093 of this title.

CODIFICATION

Section was enacted as part of section 4 of Pub. L. 88-131, which enacted provisions set out as sections 1053, 1075, 1078, and 1094 of this title, and rules 1 to 31, which are classified to sections 1061, 1062 to 1074, 1076, 1077, 1079 to 1089, 1090, and 1091 to 1093 of this title.

EFFECTIVE DATE

Section effective Sept. 1, 1965, see Proc. No. 3632, Dec. 29, 1964, 29 F.R. 19167, set out as a note under section 1051 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1069 of this title.

[1] So in original. Probably should read "include".

SUBCHAPTER III—LIGHTS AND SHAPES

§ 1062. Requirements when under way (Rule 2)

(a) Power-driven vessels

A power-driven vessel when under way shall carry—

(i) On or in front of the foremast, or if a vessel without a foremast then in the forepart of the vessel, a white light so constructed as to show an unbroken light over an arc of the horizon of 225 degrees (20 points of the compass), so fixed as to show the light 112½ degrees (10 points) on each side of the vessel, that is, from right ahead to 22½ degrees (2 points) abaft the beam on either side, and of such a character as to be visible at a distance of at least 5 miles.

(ii) Either forward or abaft the white light prescribed in clause (i) of this subsection a second white light similar in construction and character to that light. Vessels of less than 150 feet in length shall not be required to carry this second white light but may do so.

(iii) These two white lights shall be so placed in a line with and over the keel that one shall be at least 15 feet higher than the other and in such a position that the forward light shall always be shown lower than the after one. The horizontal distance between the two white lights shall be at least three times the vertical distance. The lower of these two white lights or, if only one is carried, then that light, shall be placed at a height above the hull of not less than 20 feet, and, if the breadth of the vessel exceeds 20 feet, then at a height above the hull not less than such breadth, so however that the light need not be placed at a greater height above the hull than 40 feet. In all circumstances the light or lights, as the case may be, shall be so placed as to be clear of and above all other lights and obstructing superstructures.

(iv) On the starboard side a green light so constructed as to show an unbroken light over an arc of the horizon of 112½ degrees (10 points of the compass), so fixed as to show the light from right ahead to 22½ degrees (2 points) abaft the beam on the starboard side, and of such a character as to be visible at a distance of at least 2 miles.

(v) On the port side a red light so constructed as to show an unbroken light over an arc of the horizon of 112½ degrees (10 points of the compass), so fixed as to show the light from right ahead to 22½ degrees (2 points) abaft the beam on the port side, and of such a character as to be visible at a distance of at least 2 miles.

(vi) The said green and red sidelights shall be fitted with inboard screens projecting at least 3 feet forward from the light, so as to prevent these lights from being seen across the bows.

(b) Seaplanes

A seaplane under way on the water shall carry—

(i) In the forepart amidships where it can best be seen a white light, so constructed as to show an unbroken light over an arc of the horizon of 220 degrees of the compass, so fixed as to show the light 110 degrees on each

side of the seaplane, namely, from right ahead to 20 degrees abaft the beam on either side, and of such a character as to be visible at a distance of at least 3 miles.

(ii) On the right or starboard wing tip a green light, so constructed as to show an unbroken light over an arc of the horizon of 110 degrees of the compass, so fixed as to show the light from right ahead to 20 degrees abaft the beam on the starboard side, and of such a character as to be visible at a distance of at least 2 miles.

(iii) On the left or port wing tip a red light, so constructed as to show an unbroken light over an arc of the horizon of 110 degrees of the compass, so fixed as to show the light from right ahead to 20 degrees abaft the beam on the port side, and of such a character as to be visible at a distance of at least 2 miles.

(Pub. L. 88–131, § 4, Sept. 24, 1963, 77 Stat. 196.)

CODIFICATION

Section was enacted as part of section 4 of Pub. L. 88–131, which enacted provisions set out as sections 1053, 1075, 1078, and 1094 of this title, and rules 1 to 31, which are classified to sections 1061, 1062 to 1074, 1076, 1077, 1079 to 1089, 1090, and 1091 to 1093 of this title.

EFFECTIVE DATE

Subchapter effective Sept. 1, 1965, see Proc. No. 3632, Dec. 29, 1964, 29 F.R. 19167, set out as a note under section 1051 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1063, 1064, 1065, 1067, 1068, 1069 of this title.

§ 1063. Towing or pushing other vessels or seaplanes (Rule 3)

(a) Power-driven vessels

A power-driven vessel when towing or pushing another vessel or seaplane shall, in addition to her sidelights, carry two white lights in a vertical line one over the other, not less than 6 feet apart, and when towing and the length of the tow, measuring from the stern of the towing vessel to the stern of the last vessel towed, exceeds 600 feet, shall carry three white lights in a vertical line one over the other, so that the upper and lower lights shall be the same distance from, and not less than 6 feet above or below, the middle light. Each of these lights shall be of the same construction and character and one of them shall be carried in the same position as the white light prescribed in section 1062(a)(i) of this title. None of these lights shall be carried at a height of less than 14 feet above the hull. In a vessel with a single mast, such lights may be carried on the mast.

(b) Towing vessel

The towing vessel shall also show either the stern light prescribed in section 1070 of this title or in lieu of that light a small white light abaft the funnel or aftermast for the tow to steer by, but such light shall not be visible forward of the beam.

(c) Period between sunrise and sunset

Between sunrise and sunset a power driven vessel engaged in towing, if the length of tow exceeds 600 feet, shall carry, where it can best be seen, a black diamond shape at least 2 feet in diameter.

(d) Seaplane

A seaplane on the water, when towing one or more seaplanes or vessels, shall carry the lights prescribed in section 1062(b)(i), (ii), and (iii) of this title; and, in addition, she shall carry a second white light of the same construction and character as the white light prescribed in section 1062(b)(i) of this title, and in a vertical line at least 6 feet above or below such light.

(Pub. L. 88–131, § 4, Sept. 24, 1963, 77 Stat. 197.)

CODIFICATION

Section was enacted as part of section 4 of Pub. L. 88–131, which enacted provisions set out as sections 1053, 1075, 1078, and 1094 of this title, and rules 1 to 31, which are classified to sections 1061, 1062 to 1074, 1076, 1077, 1079 to 1089, 1090, and 1091 to 1093 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1065, 1067 of this title.

§ 1064. Vessels and seaplanes not under command, and vessels engaged in certain operations (Rule 4)

(a) Vessels not under command

A vessel which is not under command shall carry, where they can best be seen, and, if a power-driven vessel, in lieu of the lights prescribed in section 1062(a)(i) and (ii) of this title, two red lights in a vertical line one over the other not less than 6 feet apart, and of such a character as to be visible all round the horizon at a distance of at least 2 miles. By day, she shall carry in a vertical line one over the other not less than 6 feet apart, where they can best be seen, two black balls or shapes each not less than 2 feet in diameter.

(b) Seaplanes not under command

A seaplane on the water which is not under command may carry, where they can best be seen, and in lieu of the light prescribed in section 1062(b)(i) of this title, two red lights in a vertical line, one over the other, not less than 3 feet apart, and of such a character as to be visible all round the horizon at a distance of at least 2 miles, and may by day carry in a vertical line one over the other not less than 3 feet apart, where they can best be seen, two black balls or shapes, each not less than 2 feet in diameter.

(c) Vessels engaged in laying or picking up submarine cable or navigation marks; surveying or underwater operations; replenishment at sea; launching or recovery of aircraft

A vessel engaged in laying or in picking up a submarine cable or navigation mark, or a vessel engaged in surveying or underwater operations, or a vessel engaged in replenishment at sea, or in the launching or recovery of aircraft when from the nature of her work she is unable to get out of the way of approaching vessels, shall carry, in lieu of the lights prescribed in section 1062(a)(i) and (ii), or section 1067(a)(i) of this title, three lights in a vertical line one over the other so that the upper and lower lights shall be the same distance from, and not less than 6 feet above or below, the middle light. The high-

est and lowest of these lights shall be red, and the middle light shall be white, and they shall be of such a character as to be visible all round the horizon at a distance of at least 2 miles. By day, she shall carry in a vertical line one over the other not less than 6 feet apart, where they can best be seen, three shapes each not less than 2 feet in diameter, of which the highest and lowest shall be globular in shape and red in colour, and the middle one diamond in shape and white.

(d) Vessels engaged in minesweeping operations

(i) A vessel engaged in minesweeping operations shall carry at the fore truck a green light, and at the end or ends of the fore yard on the side or sides on which danger exists, another such light or lights. These lights shall be carried in addition to the light prescribed in section 1062(a)(i) or section 1067(a)(i) of this title, as appropriate, and shall be of such a character as to be visible all round the horizon at a distance of at least 2 miles. By day she shall carry black balls, not less than 2 feet in diameter, in the same position as the green lights.

(ii) the showing of these lights or balls indicates that it is dangerous for other vessels to approach closer than 3,000 feet astern of the minesweeper or 1,500 feet on the side or sides on which danger exists.

(e) Coloured side lights and stern light

The vessels and seaplanes referred to in this section, when not making way through the water, shall show neither the coloured sidelights nor the stern light, but when making way they shall show them.

(f) Meaning of signals

The lights and shapes prescribed in this section are to be taken by other vessels and seaplanes as signals that the vessel or seaplane showing them is not under command and cannot therefore get out of the way.

(g) Signals not to be taken as distress signals

These signals are not signals of vessels in distress and requiring assistance. Such signals are contained in section 1093 of this title.

(Pub. L. 88–131, § 4, Sept. 24, 1963, 77 Stat. 197.)

CODIFICATION

Section was enacted as part of section 4 of Pub. L. 88–131, which enacted provisions set out as sections 1053, 1075, 1078, and 1094 of this title, and rules 1 to 31, which are classified to sections 1061, 1062 to 1074, 1076, 1077, 1079 to 1089, 1090, and 1091 to 1093 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1067, 1071, 1088 of this title.

§ 1065. Sailing vessels under way; vessels or seaplanes being towed; vessels being pushed ahead (Rule 5)

(a) Sailing vessel under way or vessel or seaplane being towed

A sailing vessel under way and any vessel or seaplane being towed shall carry the same lights as are prescribed in section 1062 of this title for a power-driven vessel or a seaplane under way, respectively, with the exception of the white lights prescribed therein, which they shall never carry. They shall also carry stern lights as prescribed in section 1070 of this title, provided that vessels towed, except the last vessel of a tow, may carry, in lieu of such stern light, a small white light as prescribed in section 1063(b) of this title.

(b) Additional lights

In addition to the lights prescribed in subsection (a) of this section, a sailing vessel may carry on the top of the foremast two lights in a vertical line one over the other, sufficiently separated so as to be clearly distinguished. The upper light shall be red and the lower light shall be green. Both lights shall be constructed and fixed as prescribed in section 1062(a)(i) of this title and shall be visible at a distance of at least 2 miles.

(c) Vessels being pushed

A vessel being pushed ahead shall carry, at the forward end, on the starboard side a green light and on the port side a red light, which shall have the same characteristics as the lights prescribed in section 1062(a)(iv) and (v) of this title and shall be screened as provided in section 1062(a)(vi) of this title, provided that any number of vessels pushed ahead in a group shall be lighted as one vessel.

(d) Period between sunrise and sunset

Between sunrise and sunset a vessel being towed, if the length of the tow exceed 600 feet, shall carry where it can best be seen a black diamond shape at least 2 feet in diameter.

(Pub. L. 88–131, § 4, Sept. 24, 1963, 77 Stat. 198.)

CODIFICATION

Section was enacted as part of section 4 of Pub. L. 88–131, which enacted provisions set out as sections 1053, 1075, 1078, and 1094 of this title, and rules 1 to 31, which are classified to sections 1061, 1062 to 1074, 1076, 1077, 1079 to 1089, 1090, and 1091 to 1093 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1067, 1068 of this title.

§ 1066. Vessels in bad weather; other sufficient cause (Rule 6)

(a) When it is not possible on account of bad weather or other sufficient cause to fix the green and red sidelights, these lights shall be kept at hand lighted and ready for immediate use, and shall, on the approach of or to other vessels, be exhibited on their respective sides in sufficient time to prevent collision, in such manner as to make them most visible, and so that the green light shall not be seen on the port side nor the red light on the starboard side, nor, if practicable, more than 22½ degrees (2 points) abaft the beam on their respective sides.

(b) To make the use of these portable lights more certain and easy, the lanterns containing them shall each be painted outside with the colour of the lights they respectively contain, and shall be provided with proper screens.

(Pub. L. 88–131, § 4, Sept. 24, 1963, 77 Stat. 199.)

CODIFICATION

Section was enacted as part of section 4 of Pub. L. 88–131, which enacted provisions set out as sections 1053, 1075, 1078, and 1094 of this title, and rules 1 to

31, which are classified to sections 1061, 1062 to 1074, 1076, 1077, 1079 to 1089, 1090, and 1091 to 1093 of this title.

§ 1067. Substitute lights for power-driven vessels, power-driven vessels towing or pushing other vessels, vessels under oars or sails, vessels being towed or pushed ahead, and rowing boats (Rule 7)

Power-driven vessels of less than 65 feet in length, vessels under oars or sails of less than 40 feet in length, and rowing boats, when under way shall not be required to carry the lights prescribed in sections 1062, 1063, and 1065 of this title, but if they do not carry them they shall be provided with the following lights—

(a) Power-driven vessels of less than 65 feet in length, except as provided in subsections (b) and (c) of this section, shall carry—

(i) In the forepart of the vessel, where it can best be seen, and at a height above the gunwale of not less than 9 feet, a white light constructed and fixed as prescribed in section 1062(a)(i) of this title and of such a character as to be visible at a distance of at least 3 miles.

(ii) Green and red sidelights constructed and fixed as prescribed in section 1062(a)(iv) and (v) of this title, and of such a character as to be visible at a distance of at least 1 mile, or a combined lantern showing a green light and a red light from right ahead to 22½ degrees (2 points) abaft the beam on their respective sides. Such lantern shall be carried not less than 3 feet below the white light.

(b) Power-driven vessels of less than 65 feet in length when towing or pushing another vessel shall carry—

(i) In addition to the sidelights or the combined lantern prescribed in subsection (a)(ii) of this section two white lights in a vertical line, one over the other not less than 4 feet apart. Each of these lights shall be of the same construction and character as the white light prescribed in subsection (a)(i) of this section and one of them shall be carried in the same position. In a vessel with a single mast such lights may be carried on the mast.

(ii) Either a stern light as prescribed in section 1070 of this title or in lieu of that light a small white light abaft the funnel or aftermast for the tow to steer by, but such light shall not be visible forward of the beam.

(c) Power-driven vessels of less than 40 feet in length may carry the white light at a less height than 9 feet above the gunwale but it shall be carried not less than 3 feet above the sidelights or the combined lantern prescribed in subsection (a)(ii) of this section.

(d) Vessels of less than 40 feet in length, under oars or sails, except as provided in subsection (f) of this section, shall, if they do not carry the sidelights, carry, where it can best be seen, a lantern showing a green light on one side and a red light on the other, of such a character as to be visible at a distance of at least 1 mile, and so fixed that the green light shall not be seen on the port side, nor the red light on the starboard side. Where it is not possible to fix this light, it shall be kept ready for immediate use and shall be exhibited in sufficient time to prevent collision and so that the green light shall not be seen on the port side nor the red light on the starboard side.

(e) The vessels referred to in this section when being towed shall carry the sidelights or the combined lantern prescribed in subsections (a) or (d) of this section, as appropriate, and a stern light as prescribed in section 1070 of this title, or, except the last vessel of the tow, a small white light as prescribed in subsection (b)(ii) of this section. When being pushed ahead they shall carry at the forward end the sidelights or combined lantern prescribed in subsections (a) or (d) of this section as appropriate, provided that any number of vessels referred to in this section when pushed ahead in a group shall be lighted as one vessel under this section unless the overall length of the group exceeds 65 feet when the provisions of section 1065(c) of this title shall apply.

(f) Small rowing boats, whether under oars or sail, shall only be required to have ready at hand an electric torch or a lighted lantern, showing a white light, which shall be exhibited in sufficient time to prevent collision.

(g) The vessels and boats referred to in this section shall not be required to carry the lights or shapes prescribed in sections 1064(a) and 1071(e) of this title and the size of their day signals may be less than is prescribed in sections 1064(c) and 1071(c) of this title.

(Pub. L. 88–131, § 4, Sept. 24, 1963, 77 Stat. 199.)

CODIFICATION

Section was enacted as part of section 4 of Pub. L. 88–131, which enacted provisions set out as sections 1053, 1075, 1078, and 1094 of this title, and rules 1 to 31, which are classified to sections 1061, 1062 to 1074, 1076, 1077, 1079 to 1089, 1090, and 1091 to 1093 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1064, 1068, 1069 of this title.

§ 1068. Pilot-vessels on and off duty (Rule 8)

(a) Power-driven pilot vessel engaged on pilotage duty and under way

A power-driven pilot-vessel when engaged on pilotage duty and under way—

(i) Shall carry a white light at the masthead at a height of not less than 20 feet above the hull, visible all round the horizon at a distance of at least 3 miles and at a distance of 8 feet below it a red light similar in construction and character. If such a vessel is of less than 65 feet in length she may carry the white light at a height of not less than 9 feet above the gunwale and the red light at a distance of 4 feet below the white light.

(ii) Shall carry the sidelights or lanterns prescribed in section 1062(a)(iv) and (v) or section 1067(a)(ii) or (d) of this title, as appropriate, and the stern light prescribed in section 1070 of this title.

(iii) Shall show one or more flare-up lights at intervals not exceeding 10 minutes. An intermittent white light visible all round the horizon may be used in lieu of flare-up lights.

(b) Sailing pilot vessel engaged on pilotage duty and under way

A sailing pilot-vessel when engaged on pilotage duty and under way—

(i) Shall carry a white light at the masthead visible all round the horizon at a distance of at least 3 miles.

(ii) Shall be provided with the sidelights or lantern prescribed in sections 1065(a) or 1067(d) of this title, as appropriate, and shall, on the near approach of or to other vessels, have such lights ready for use, and shall show them at short intervals to indicate the direction in which she is heading, but the green light shall not be shown on the port side nor the red light on the starboard side. She shall also carry the stern light prescribed in section 1070 of this title.

(iii) Shall show one or more flare-up lights at intervals not exceeding ten minutes.

(c) Pilot vessel engaged on pilotage duty and not under way

A pilot-vessel when engaged on pilotage duty and not under way shall carry the lights and show the flares prescribed in subsections (a)(i) and (iii) or (b)(i) and (iii) of this section, as appropriate, and if at anchor shall also carry the anchor lights prescribed in section 1071 of this title.

(d) Pilot vessel not engaged on pilotage duty

A pilot-vessel when not engaged on pilotage duty shall show the lights or shapes for a similar vessel of her length.

(Pub. L. 88-131, § 4, Sept. 24, 1963, 77 Stat. 200.)

CODIFICATION

Section was enacted as part of section 4 of Pub. L. 88-131, which enacted provisions set out as sections 1053, 1075, 1078, and 1094 of this title, and rules 1 to 31, which are classified to sections 1061, 1062 to 1074, 1076, 1077, 1079 to 1089, 1090, and 1091 to 1093 of this title.

§ 1069. Fishing vessels; trawling vessels; fishing vessels by day (Rule 9)

(a) Fishing vessels not engaged in fishing

Fishing vessels when not engaged in fishing shall show the lights or shapes for similar vessels of their length.

(b) Vessels engaged in fishing under way or at anchor

Vessels engaged in fishing, when under way or at anchor, shall show only the lights and shapes prescribed in this section, which lights and shapes shall be visible at a distance of at least 2 miles.

(c) Vessels engaged in trawling

(i) Vessels when engaged in trawling, by which is meant the dragging of a dredge net or other apparatus through the water, shall carry two lights in a vertical line, one over the other, not less than 4 feet nor more than 12 feet apart. The upper of these lights shall be green and the lower light white and each shall be visible all round the horizon. The lower of these two lights shall be carried at a height above the sidelights not less than twice the distance between the two vertical lights.

(ii) Such vessels may in addition carry a white light similar in construction to the white light prescribed in section 1062(a)(i) of this title but such light shall be carried lower than and abaft the all-round green and white lights.

(d) Vessels engaged in fishing but not engaged in trawling

Vessels when engaged in fishing, except vessels engaged in trawling, shall carry the lights prescribed in subsection (c)(i) of this section except that the upper of the two vertical lights shall be red. Such vessels if of less than 40 feet in length may carry the red light at a height of not less than 9 feet above the gunwale and the white light not less than 3 feet below the red light.

(e) Fishing and trawling vessels when making way through the water

Vessels referred to in subsections (c) and (d) of this section, when making way through the water, shall carry the sidelights or lanterns prescribed in section 1062(a)(iv) and (v) or section 1067(a)(ii) or (d) of this title, as appropriate, and the stern light prescribed in section 1070 of this title. When not making way through the water they shall show neither the sidelights nor the stern light.

(f) Fishing vessel, except trawler, with outlaying gear extending more than 500 feet horizontally into seaway

Vessels referred to in subsection (d) of this section with outlying gear extending more than 500 feet horizontally into the seaway shall carry an additional all-round white light at a horizontal distance of not less than 6 feet nor more than 20 feet away from the vertical lights in the direction of the outlying gear. This additional white light shall be placed at a height not exceeding that of the white light prescribed in subsection (c)(i) of this section and not lower than the sidelights.

(g) Additional lights

In addition to the lights which they are required by this section to carry, vessels engaged in fishing may, if necessary in order to attract the attention of an approaching vessel, use a flare-up light, or may direct the beam of their searchlight in the direction of a danger threatening the approaching vessel, in such a way as not to embarrass other vessels. They may also use working lights but fisherman shall take into account that specially bright or insufficiently screened working lights may impair the visibility and distinctive character of the lights prescribed in this section.

(h) Vessels engaged in fishing by day

By day vessels when engaged in fishing shall indicate their occupation by displaying where it can best be seen a black shape consisting of two cones each not less than 2 feet in diameter with their points together one above the other. Such vessels if of less than 65 feet in length may substitute a basket for such black shape. If their outlying gear extends more than 500 feet horizontally into the seaway vessels engaged in fishing shall display in addition one black conical shape, point upwards, in the direction of the outlying gear.

NOTE.—Vessels fishing with trolling lines are not "engaged in fishing" as defined in section 1061(c)(xiv) of this title.

(Pub. L. 88-131, § 4, Sept. 24, 1963, 77 Stat. 201.)

CODIFICATION

Section was enacted as part of section 4 of Pub. L. 88-131, which enacted provisions set out as sections 1053, 1075, 1078, and 1094 of this title, and rules 1 to 31, which are classified to sections 1061, 1062 to 1074, 1076, 1077, 1079 to 1089, 1090, and 1091 to 1093 of this title.

§ 1070. Stern and tail lights (Rule 10)

(a) Vessels under way

Except where otherwise provided in these Rules, a vessel when under way shall carry at her stern a white light, so constructed that it shall show an unbroken light over an arc of the horizon of 135 degrees (12 Points of the compass), so fixed as to show the light 67½ degrees (6 points) from right aft on each side of the vessel, and of such a character as to be visible at a distance of at least 2 miles.

(b) Small vessels

In a small vessel, if it is not possible on account of bad weather or other sufficient cause for this light to be fixed, an electric torch or a lighted lantern showing a white light shall be kept at hand ready for use and shall, on the approach of an overtaking vessel, be shown in sufficient time to prevent collision.

(c) Seaplanes

A seaplane on the water when under way shall carry on her tail a white light, so constructed as to show an unbroken light over an arc of the horizon of 140 degrees of the compass, so fixed as to show the light 70 degrees from right aft on each side of the seaplane, and of such a character as to be visible at a distance of at least 2 miles.

(Pub. L. 88-131, § 4, Sept. 24, 1963, 77 Stat. 202.)

REFERENCES IN TEXT

These Rules, referred to in subsec. (a), mean rules 1 to 31 as promulgated by section 4 of Pub. L. 88-131, which are classified to sections 1061, 1062 to 1074, 1076, 1077, 1079 to 1089, 1090, and 1091 to 1093 of this title.

CODIFICATION

Section was enacted as part of section 4 of Pub. L. 88-131, which enacted provisions set out as sections 1053, 1075, 1078, and 1094 of this title, and rules 1 to 31, which are classified to sections 1061, 1062 to 1074, 1076, 1077, 1079 to 1089, 1090, and 1091 to 1093 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1063, 1065, 1067, 1068, 1069 of this title.

§ 1071. Vessels and seaplanes at anchor or aground (Rule 11)

(a) Vessel of less than 150 feet in length

A vessel of less than 150 feet in length, when at anchor, shall carry in the forepart of the vessel, where it can best be seen, a white light visible all round the horizon at a distance of at least 2 miles. Such a vessel may also carry a second white light in the position prescribed in subsection (b) of this section but shall not be required to do so. The second white light, if carried, shall be visible at a distance of at least 2 miles and so placed as to be as far as possible visible all round the horizon.

(b) Vessel of more than 150 feet in length

A vessel of 150 feet or more in length, when at anchor, shall carry near the stem of the vessel, at a height of not less than 20 feet above the hull, one such light, and at or near the stern of the vessel and at such a height that it shall be not less than 15 feet lower than the forward light, another such light. Both these lights shall be visible at a distance of at least 3 miles and so placed as to be as far as possible visible all round the horizon.

(c) Period between sunrise and sunset

Between sunrise and sunset every vessel when at anchor shall carry in the forepart of the vessel, where it can best be seen, one black ball not less than 2 feet in diameter.

(d) Vessel engaged in laying or picking up submarine cable or navigation marks, or surveying or underwater operations

A vessel engaged in laying or in picking up a submarine cable or navigation mark, or a vessel engaged in surveying or underwater operations, when at anchor, shall carry the lights or shapes prescribed in section 1064(c) of this title in addition to those prescribed in the appropriate preceding subsections of this section.

(e) Vessel aground

A vessel aground shall carry the light or lights prescribed in subsections (a) or (b) of this section and the two red lights prescribed in section 1064(a) of this title. By day she shall carry, where they can best be seen, three black balls, each not less than 2 feet in diameter, placed in a vertical line one over the other, not less than 6 feet apart.

(f) Seaplane of less than 150 feet in length

A seaplane on the water under 150 feet in length, when at anchor, shall carry, where it can best be seen, a white light, visible all round the horizon at a distance of at least 2 miles.

(g) Seaplane of more than 150 feet in length

A seaplane on the water 150 feet or upwards in length, when at anchor, shall carry, where they can best be seen, a white light forward and a white light aft, both lights visible all round the horizon at a distance of at least 3 miles; and, in addition, if the seaplane is more than 150 feet in span, a white light on each side to indicate the maximum span, and visible, so far as practicable, all round the horizon at a distance of 1 mile.

(h) Seaplane aground

A seaplane aground shall carry on[1] anchor light or lights as prescribed in subsections (f) and (g) of this section, and in addition may carry two red lights in a vertical line, at least 3 feet apart, so placed as to be visible all round the horizon.

(Pub. L. 88-131, § 4, Sept. 24, 1963, 77 Stat. 202.)

CODIFICATION

Section was enacted as part of section 4 of Pub. L. 88-131, which enacted provisions set out as sections 1053, 1075, 1078, and 1094 of this title, and rules 1 to 31, which are classified to sections 1061, 1062 to 1074, 1076, 1077, 1079 to 1089, 1090, and 1091 to 1093 of this title.

[1] So in original. Probably should read "an".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1067, 1068 of this title.

§ 1072. Additional lights and signals when necessary (Rule 12)

Every vessel or seaplane on the water may, if necessary in order to attract attention, in addition to the lights which she is by these Rules required to carry, show a flare-up light or use a detonating or other efficient sound signal that cannot be mistaken for any signal authorised elsewhere under these Rules.

(Pub. L. 88-131, § 4, Sept. 24, 1963, 77 Stat. 203.)

REFERENCES IN TEXT

These Rules, referred to in text, mean rules 1 to 31 as promulgated by section 4 of Pub. L. 88-131, which are classified to sections 1061, 1062 to 1074, 1076, 1077, 1079 to 1089, 1090, and 1091 to 1093 of this title.

CODIFICATION

Section was enacted as part of section 4 of Pub. L. 88-131, which enacted provisions set out as sections 1053, 1075, 1078, and 1094 of this title, and rules 1 to 31, which are classified to sections 1061, 1062 to 1074, 1076, 1077, 1079 to 1089, 1090, and 1091 to 1093 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1076 of this title.

§ 1073. Ships of war, convoy vessels, fishing vessels, and seaplanes on water; naval and military vessels and seaplanes of special construction (Rule 13)

(a) Nothing in these Rules shall interfere with the operation of any special rules made by the Government of any nation with respect to additional station and signal lights for ships of war, for vessels sailing under convoy, for fishing vessels engaged in fishing as a fleet or for seaplanes on the water.

(b) Whenever the Government concerned shall have determined that a naval or other military vessel or waterborne seaplane of special construction or purpose cannot comply fully with the provisions of any of these Rules with respect to the number, position, range or arc of visibility of lights or shapes, without interfering with the military function of the vessel or seaplane, such vessel or seaplane shall comply with such other provisions in regard to the number, position, range or arc of visibility of lights or shapes as her Government shall have determined to be the closest possible compliance with such sections in respect of that vessel or seaplane.

(Pub. L. 88-131, § 4, Sept. 24, 1963, 77 Stat. 203.)

REFERENCES IN TEXT

These Rules, referred to in text, mean rules 1 to 31 as promulgated by section 4 of Pub. L. 88-131, which are classified to sections 1061, 1062 to 1074, 1076, 1077, 1079 to 1089, 1090, and 1091 to 1093 of this title.

CODIFICATION

Section was enacted as part of section 4 of Pub. L. 88-131, which enacted provisions set out as sections 1053, 1075, 1078, and 1094 of this title, and rules 1 to 31, which are classified to sections 1061, 1062 to 1074, 1076, 1077, 1079 to 1089, 1090, and 1091 to 1093 of this title.

§ 1074. Vessels proceeding under sail, when also propelled by machinery (Rule 14)

A vessel proceeding under sail, when also being propelled by machinery, shall carry in the daytime forward, where it can best be seen, one black conical shape, point downwards, not less than 2 feet in diameter at its base.

(Pub. L. 88-131, § 4, Sept. 24, 1963, 77 Stat. 203.)

CODIFICATION

Section was enacted as part of section 4 of Pub. L. 88-131 which enacted provisions set out as sections 1053, 1075, 1078, and 1094 of this title, and rules 1 to 31, which are classified to sections 1061, 1062 to 1074, 1076, 1077, 1079 to 1089, 1090, and 1091 to 1093 of this title.

SUBCHAPTER IV—SOUND SIGNALS AND CONDUCT IN RESTRICTED VISIBILITY

§ 1075. General considerations of radar

1. The possession of information obtained from radar does not relieve any vessel of the obligation of conforming strictly with the Rules and, in particular, the obligations contained in sections 1076 and 1077 of this title.

2. The Annex to the Rules contains recommendations intended to assist in the use of radar as an aid to avoiding collision in restricted visibility.

(Pub. L. 88-131, § 4, Sept. 24, 1963, 77 Stat. 203.)

REFERENCES IN TEXT

The Rules, referred to in par. (1), mean rules 1 to 31 as promulgated by section 4 of Pub. L. 88-131, which are classified to sections 1061, 1062 to 1074, 1076, 1077, 1079 to 1089, 1090, and 1091 to 1093 of this title.

The "Annex to the Rules" referred to in par. (2) is classified to section 1094 of this title.

CODIFICATION

Section was enacted as part of section 4 of Pub. L. 88-131, which enacted provisions set out as sections 1053, 1075, 1078, and 1094 of this title, and rules 1 to 31, which are classified to sections 1061, 1062 to 1074, 1076, 1077, 1079 to 1089, 1090, and 1091 to 1093 of this title.

EFFECTIVE DATE

Subchapter effective Sept. 1, 1965, see Proc. No. 3632, Dec. 29, 1964, 29 F.R. 19167, set out as a note under section 1051 of this title.

§ 1076. Sound signals (Rule 15)

(a) Power-driven, and sailing vessels

A power-driven vessel of 40 feet or more in length shall be provided with an efficient whistle, sounded by steam or by some substitute for steam, so placed that the sound may not be intercepted by any obstruction, and with an efficient fog horn to be sounded by mechanical means, and also with an efficient bell. A sailing vessel of 40 feet or more in length shall be provided with a similar fog horn and bell.

(b) Methods of sending

All signals prescribed in this section for vessels under way shall be given—

(i) by power-driven vessels on the whistle;

(ii) by sailing vessels on the fog horn;

(iii) by vessels towed on the whistle or fog horn.

(c) Number and length of blasts and rings

In fog, mist, falling snow, heavy rainstorms, or any other condition similarly restricting visibility, whether by day or night, the signals prescribed in this section shall be used as follows—

(i) A power-driven vessel making way through the water shall sound at intervals of not more than 2 minutes a prolonged blast.

(ii) A power-driven vessel under way, but stopped and making no way through the water, shall sound at intervals of not more than 2 minutes two prolonged blasts, with an interval of about 1 second between them.

(iii) A sailing vessel under way shall sound, at intervals of not more than 1 minute, when on the starboard tack one blast, when on the port tack two blasts in succession, and when with the wind abaft the beam three blasts in succession.

(iv) A vessel when at anchor shall at intervals of not more than 1 minute ring the bell rapidly for about 5 seconds. In vessels of more than 350 feet in length the bell shall be sounded in the forepart of the vessel, and in addition there shall be sounded in the after part of the vessel, at intervals of not more than 1 minute for about 5 seconds, a gong or other instrument, the tone and sounding of which cannot be confused with that of the bell. Every vessel at anchor may in addition, in accordance with section 1072 of this title, sound three blasts in succession, namely, one short, one prolonged, and one short blast, to give warning of her position and of the possibility of collision to an approaching vessel.

(v) A vessel when towing, a vessel engaged in laying or in picking up a submarine cable or navigation mark, and a vessel under way which is unable to get out of the way of an approaching vessel through being not under command or unable to manoeuvre as required by these Rules shall, instead of the signals prescribed in clauses (i), (ii), and (iii) of this subsection sound, at intervals of not more than 1 minute, three blasts in succession, namely, one prolonged blast followed by two short blasts.

(vi) A vessel towed, or, if more than one vessel is towed, only the last vessel of the tow, if manned, shall, at intervals of not more than 1 minute, sound four blasts in succession, namely, one prolonged blast followed by three short blasts. When practicable, this signal shall be made immediately after the signal made by the towing vessel.

(vii) A vessel aground shall give the bell signal and, if required, the gong signal, prescribed in clause (iv) of this subsection and shall, in addition, give 3 separate and distinct strokes on the bell immediately before and after such rapid ringing of the bell.

(viii) A vessel engaged in fishing when under way or at anchor shall at intervals of not more than 1 minute sound the signal prescribed in clause (v) of this subsection. A vessel when fishing with trolling lines and under way shall sound the signals prescribed in clauses (i), (ii), or (iii) of this subsection as may be appropriate.

(ix) A vessel of less than 40 feet in length, a rowing boat, or a seaplane on the water, shall not be obliged to give the above-mentioned signals but if she does not, she shall make some other efficient sound signal at intervals of not more than 1 minute.

(x) A power-driven pilot-vessel when engaged on pilotage duty may, in addition to the signals prescribed in clauses (i), (ii) and (iv) of this subsection, sound an identity signal consisting of 4 short blasts.

(Pub. L. 88–131, § 4, Sept. 24, 1963, 77 Stat. 203.)

REFERENCES IN TEXT

These Rules, referred to in subsec. (c)(v), mean rules 1 to 31 as promulgated by section 4 of Pub. L. 88–131, which are classified to sections 1061, 1062 to 1074, 1076, 1077, 1079 to 1089, 1090, and 1091 to 1093 of this title.

CODIFICATION

Section was enacted as part of section 4 of Pub. L. 88–131, which enacted provisions set out as sections 1053, 1075, 1078, and 1094 of this title, and rules 1 to 31, which are classified to sections 1061, 1062 to 1074, 1076, 1077, 1079 to 1089, 1090, and 1091 to 1093 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1075 of this title.

§ 1077. Speed in weather restricting visibility (Rule 16)

(a) Vessel or seaplane taxiing

Every vessel, or seaplane when taxi-ing on the water, shall, in fog, mist, falling snow, heavy rainstorms or any other condition similarly restricting visibility, go at a moderate speed, having careful regard to the existing circumstances and conditions.

(b) Power driven vessel hearing fog signal

A power-driven vessel hearing, apparently forward of her beam, the fog-signal of a vessel the position of which is not ascertained, shall, go far as the circumstances of the case admit, stop her engines, and then navigate with caution until danger of collision is over.

(c) Power driven vessel detecting presence of other vessel

A power-driven vessel which detects the presence of another vessel forward of her beam before hearing her fog signal or sighting her visually may take early and substantial action to avoid a close quarters situation but, if this cannot be avoided, she shall, so far as the circumstances of the case admit, stop her engines in proper time to avoid collision and then navigate with caution until danger of collision is over.

(Pub. L. 88–131, § 4, Sept. 24, 1963, 77 Stat. 205.)

CODIFICATION

Section was enacted as part of section 4 of Pub. L. 88–131, which enacted provisions set out as sections 1053, 1075, 1078, and 1094 of this title, and rules 1 to 31, which are classified to sections 1061, 1062 to 1074, 1076, 1077, 1079 to 1089, 1090, and 1091 to 1093 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1075, 1094 of this title.

SUBCHAPTER V—STEERING AND SAILING RULES

§ 1078. General considerations

1. In obeying and construing these Rules, any action taken should be positive, in ample time, and with due regard to the observance of good seamanship.

2. Risk of collision can, when circumstances permit, be ascertained by carefully watching the compass bearing of an approaching vessel. If the bearing does not appreciably change, such risk should be deemed to exist.

3. Mariners should bear in mind that seaplanes in the act of landing or taking off, or operating under adverse weather conditions, may be unable to change their intended action at the last moment.

4. Sections 1079 to 1086 of this title apply only to vessels in sight of one another.

(Pub. L. 88-131, § 4, Sept. 24, 1963, 77 Stat. 205.)

REFERENCES IN TEXT

These Rules, referred to in par. (1), mean rules 1 to 31 as promulgated by section 4 of Pub. L. 88-131, which are classified to sections 1061, 1062 to 1074, 1076, 1077, 1079 to 1089, 1090, and 1091 to 1093 of this title.

CODIFICATION

Section was enacted as part of section 4 of Pub. L. 88-131, which enacted provisions set out as sections 1053, 1075, 1078, and 1094 of this title, and rules 1 to 31, which are classified to sections 1061, 1062 to 1074, 1076, 1077, 1079 to 1089, 1090, and 1091 to 1093 of this title.

EFFECTIVE DATE

Subchapter effective Sept. 1, 1965, see Proc. No. 3632, Dec. 29, 1964, 29 F.R. 19167, set out as a note under section 1051 of this title.

§ 1079. Sailing vessels approaching one another; windward side (Rule 17)

(a) When two sailing vessels are approaching one another, so as to involve risk of collision, one of them shall keep out of the way of the other as follows—

(i) When each has the wind on a different side, the vessel which has the wind on the port side shall keep out of the way of the other.

(ii) When both have the wind on the same side, the vessel which is to windward shall keep out of the way of the vessel which is to leeward.

(b) For the purposes of this section the windward side shall be deemed to be the side opposite to that on which the mainsail is carried or, in the case of a square-rigged vessel, the side opposite to that on which the largest fore-and-aft sail is carried.

(Pub. L. 88-131, § 4, Sept. 24, 1963, 77 Stat. 205.)

CODIFICATION

Section was enacted as part of section 4 of Pub. L. 88-131, which enacted provisions set out as sections 1053, 1075, 1078, and 1094 of this title, and rules 1 to 31, which are classified to sections 1061, 1062 to 1074, 1076, 1077, 1079 to 1089, 1090, and 1091 to 1093 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1078 of this title

§ 1080. Power-driven vessels meeting end on; definition (Rule 18)

(a) When two power-driven vessels are meeting end on, or nearly end on, so as to involve risk of collision, each shall alter her course to starboard, so that each may pass on the port side of the other. This section only applies to cases where vessels are meeting end on, or nearly end on, in such a manner as to involve risk of collision, and does not apply to two vessels which must, if both keep on their respective course, pass clear of each other. The only cases to which it does apply are when each of two vessels is end on, or nearly end on, to the other; in other words, to cases in which, by day, each vessel sees the masts of the other in a line, or nearly in a line, with her own; and by night, to cases in which each vessel is in such a position as to see both the sidelights of the other. It does not apply, by day, to cases in which a vessel sees another ahead crossing her own course; or, by night, to cases where the red light of one vessel is opposed to the red light of the other or where the green light of one vessel is opposed to the green light of the other or where a red light without a green light or a green light without a red light is seen ahead, or where both green and red lights are seen anywhere but ahead.

(b) For the purposes of this section and sections 1081 to 1091 of this title inclusive, except section 1082(c) and section 1090 of this title, a seaplane on the water shall be deemed to be a vessel, and the expression "power-driven vessel" shall be construed accordingly.

(Pub. L. 88-131, § 4, Sept. 24, 1963, 77 Stat. 205.)

CODIFICATION

Section was enacted as part of section 4 of Pub. L. 88-131, which enacted provisions set out as sections 1053, 1075, 1078, and 1094 of this title, and rules 1 to 31, which are classified to sections 1061, 1062 to 1074, 1076, 1077, 1079 to 1089, 1090, and 1091 to 1093 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1078 of this title

§ 1081. Power driven vessels crossing (Rule 19)

When two power-driven vessels are crossing, so as to involve risk of collision, the vessel which has the other on her own starboard side shall keep out of the way of the other.

(Pub. L. 88-131, § 4, Sept. 24, 1963, 77 Stat. 206.)

CODIFICATION

Section was enacted as part of section 4 of Pub. L. 88-131, which enacted provisions set out as sections 1053, 1075, 1078, and 1094 of this title, and rules 1 to 31, which are classified to sections 1061, 1062 to 1074, 1076, 1077, 1079 to 1089, 1090, and 1091 to 1093 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1078, 1080 of this title.

§ 1082. Vessels or seaplanes meeting (Rule 20)

(a) Power-driven vessel and sailing vessel

When a power-driven vessel and a sailing vessel are proceeding in such directions as to involve risk of collision, except as provided for in sections 1086 and 1088 of this title, the power-driven vessel shall keep out of the way of the sailing vessel.

(b) Sailing vessel in small channel

This section shall not give to a sailing vessel the right to hamper, in a narrow channel, the safe passage of a power-driven vessel which can navigate only inside such channel.

(c) Seaplane

A seaplane on the water shall, in general, keep well clear of all vessels and avoid impeding their navigation. In circumstances, however, where risk of collision exists, she shall comply with these Rules.

(Pub. L. 88–131, § 4, Sept. 24, 1963, 77 Stat. 206.)

REFERENCES IN TEXT

These Rules, referred to in subsec. (c), mean rules 1 to 31 as promulgated by section 4 of Pub. L. 88–131, which are classified to sections 1061, 1062 to 1074, 1076, 1077, 1079 to 1089, 1090, and 1091 to 1093 of this title.

CODIFICATION

Section was enacted as part of section 4 of Pub. L. 88–131, which enacted provisions set out as sections 1053, 1075, 1078, and 1094 of this title, and rules 1 to 31, which are classified to sections 1061, 1062 to 1074, 1076, 1077, 1079 to 1089, 1090, and 1091 to 1093 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1078, 1080 of this title.

§ 1083. Vessels having right of way; duty in aiding to avert collision (Rule 21)

Where by any of these Rules one of two vessels is to keep out of the way, the other shall keep her course and speed. When, from any cause, the latter vessel finds herself so close that collision cannot be avoided by the action of the giving-way vessel alone, she also shall take such action as will best aid to avert collision (see sections 1089 and 1091 of this title).

(Pub. L. 88–131, § 4, Sept. 24, 1963, 77 Stat. 206.)

REFERENCES IN TEXT

These Rules, referred to in text, mean rules 1 to 31 as promulgated by section 4 of Pub. L. 88–131, which are classified to sections 1061, 1062 to 1074, 1076, 1077, 1079 to 1089, 1090, and 1091 to 1093 of this title.

CODIFICATION

Section was enacted as part of section 4 of Pub. L. 88–131, which enacted provisions set out as sections 1053, 1075, 1078, and 1094 of this title, and rules 1 to 31, which are classified to sections 1061, 1062 to 1074, 1076, 1077, 1079 to 1089, 1090, and 1091 to 1093 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1078, 1080 of this title.

§ 1084. Positive action to keep out of way; crossing ahead of vessel having right of way (Rule 22)

Every vessel which is directed by these Rules to keep out of the way of another vessel shall, so far as possible, take positive early action to comply with this obligation, and shall, if the circumstances of the case admit, avoid crossing ahead of the other.

(Pub. L. 88–131, § 4, Sept. 24, 1963, 77 Stat. 206.)

REFERENCES IN TEXT

These Rules, referred to in text, mean rules 1 to 31 as promulgated by section 4 of Pub. L. 88–131, which are classified to sections 1061, 1062 to 1074, 1076, 1077, 1079 to 1089, 1090, and 1091 to 1093 of this title.

CODIFICATION

Section was enacted as part of section 4 of Pub. L. 88–131, which enacted provisions set out as sections 1053, 1075, 1078, and 1094 of this title, and rules 1 to 31, which are classified to sections 1061, 1062 to 1074, 1076, 1077, 1079 to 1089, 1090, and 1091 to 1093 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1078, 1080 of this title.

§ 1085. Duty to slacken speed, stop or reverse (Rule 23)

Every power-driven vessel which is directed by these Rules to keep out of the way of another vessel shall, on approaching her, if necessary, slacken her speed or stop or reverse.

(Pub. L. 88–131, § 4, Sept. 24, 1963, 77 Stat. 206.)

REFERENCES IN TEXT

These Rules, referred to in text, mean rules 1 to 31 as promulgated by section 4 of Pub. L. 88–131, which are classified to sections 1061, 1062 to 1074, 1076, 1077, 1079 to 1089, 1090, and 1091 to 1093 of this title.

CODIFICATION

Section was enacted as part of section 4 of Pub. L. 88–131, which enacted provisions set out as sections 1053, 1075, 1078, and 1094 of this title, and rules 1 to 31, which are classified to sections 1061, 1062 to 1074, 1076, 1077, 1079 to 1089, 1090, and 1091 to 1093 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1078, 1080 of this title.

§ 1086. Overtaking vessel to keep out of way (Rule 24)

(a) In general

Notwithstanding anything contained in these Rules every vessel overtaking any other shall keep out of the way of the overtaken vessel.

(b) Approaching vessel more than 22½ degrees abaft her beam

Every vessel coming up with another vessel from any direction more than 22½ degrees (2 points) abaft her beam, i.e., in such a position, with reference to the vessel which she is overtaking, that at night she would be unable to see either of that vessel's sidelights, shall be deemed to be an overtaking vessel; and no subsequent alteration of the bearing between the two vessels shall make the overtaking vessel a crossing vessel within the meaning of these Rules or relieve her of the duty of keeping

clear of the overtaken vessel until she is finally past and clear.

(c) Presumption

If the overtaking vessel cannot determine with certainty whether she is forward of or abaft this direction from the other vessel, she shall assume that she is an overtaking vessel and keep out of the way.

(Pub. L. 88–131, § 4, Sept. 24, 1963, 77 Stat. 206.)

REFERENCES IN TEXT

These Rules, referred to in subsecs. (a) and (b), mean rules 1 to 31 as promulgated by section 4 of Pub. L. 88–131, which are classified to sections 1061, 1062 to 1074, 1076, 1077, 1079 to 1089, 1090, and 1091 to 1093 of this title.

CODIFICATION

Section was enacted as part of section 4 of Pub. L. 88–131, which enacted provisions set out as sections 1053, 1075, 1078, and 1094 of this title, and rules 1 to 31, which are classified to sections 1061, 1062 to 1074, 1076, 1077, 1079 to 1089, 1090, and 1091 to 1093 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1078, 1080, 1082 of this title.

§ 1087. Power-driven vessels in narrow channels; nearing bends therein (Rule 25)

(a) Vessel to keep to starboard side of mid-channel

In a narrow channel every power-driven vessel when proceeding along the course of the channel shall, when it is safe and practicable, keep to that side of the fairway or mid-channel which lies on the starboard side of such vessel.

(b) Bend in channel

Whenever a power-driven vessel is nearing a bend in a channel where a vessel approaching from the other direction cannot be seen, such power-driven vessel, when she shall have arrived within one-half (½) mile of the bend, shall give a signal by one prolonged blast on her whistle which signal shall be answered by a similar blast given by any approaching power-driven vessel that may be within hearing around the bend. Regardless of whether an approaching vessel on the farther side of the bend is heard, such bend shall be rounded with alertness and caution.

(c) Vessel of less than 65 feet in length

In a narrow channel a power-driven vessel of less than 65 feet in length shall not hamper the safe passage of a vessel which can navigate only inside such channel.

(Pub. L. 88–131, § 4, Sept. 24, 1963, 77 Stat. 207.)

CODIFICATION

Section was enacted as part of section 4 of Pub. L. 88–131, which enacted provisions set out as sections 1053, 1075, 1078, and 1094 of this title, and rules 1 to 31, which are classified to sections 1061, 1062 to 1074, 1076, 1077, 1079 to 1089, 1090, and 1091 to 1093 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1080 of this title.

§ 1088. Right of way of fishing vessels; obstruction of fairways (Rule 26)

All vessels not engaged in fishing, except vessels to which the provisions of section 1064 of this title apply, shall, when under way, keep out of the way of vessels engaged in fishing. This section shall not give to any vessel engaged in fishing the right of obstructing a fairway used by vessels other than fishing vessels.

(Pub. L. 88–131, § 4, Sept. 24, 1963, 77 Stat. 207.)

CODIFICATION

Section was enacted as part of section 4 of Pub. L. 88–131, which enacted provisions set out as sections 1053, 1075, 1078, and 1094 of this title, and rules 1 to 31, which are classified to sections 1061, 1062 to 1074, 1076, 1077, 1079 to 1089, 1090, and 1091 to 1093 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1080, 1082 of this title.

§ 1089. Special circumstances requiring departure from rules to avoid immediate danger (Rule 27)

In obeying and construing these Rules due regard shall be had to all dangers of navigation and collision, and to any special circumstances, including the limitations of the craft involved, which may render a departure from the above Rules necessary in order to avoid immediate danger.

(Pub. L. 88–131, § 4, Sept. 24, 1963, 77 Stat. 207.)

REFERENCES IN TEXT

These Rules, referred to in text, mean rules 1 to 31 as promulgated by section 4 of Pub. L. 88–131, which are classified to sections 1061, 1062 to 1074, 1076, 1077, 1079 to 1089, 1090, and 1091 to 1093 of this title.

CODIFICATION

Section was enacted as part of section 4 of Pub. L. 88–131, which enacted provisions set out as sections 1053, 1075, 1078, and 1094 of this title, and rules 1 to 31, which are classified to sections 1061, 1062 to 1074, 1076, 1077, 1079 to 1089, 1090, and 1091 to 1093 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1080, 1083, 1090 of this title.

SUBCHAPTER VI—SOUND SIGNALS FOR VESSELS IN SIGHT OF ONE ANOTHER

§ 1090. Sound signals indicating course (Rule 28)

(a) Meaning of blasts

When vessels are in sight of one another, a power-driven vessel under way, in taking any course authorized or required by these Rules, shall indicate that course by the following signals on her whistle, namely—

One short blast to mean "I am altering my course to starboard".

Two short blasts to mean "I am altering my course to port".

Three short blasts to mean "My engines are going astern".

(b) Doubt as to action of other vessel

Whenever a power-driven vessel which, under these Rules, is to keep her course and speed, is in sight of another vessel and is in doubt

whether sufficient action is being taken by the other vessel to avert collision, she may indicate such doubt by giving at least five short and rapid blasts on the whistle. The giving of such a signal shall not relieve a vessel of her obligations under sections 1089 and 1091 of this title or any other provision of these Rules, or of her duty to indicate any action taken under these Rules by giving the appropriate sound signals laid down in this section.

(c) Simultaneous operation of whistle and visual signals

Any whistle signal mentioned in this section may be further indicated by a visual signal consisting of a white light visible all round the horizon at a distance of at least 5 miles, and so devised that it will operate simultaneously and in conjunction with the whistle-sounding mechanism and remain lighted and visible during the same period as the sound signal.

(d) Additional signals between ships of war or vessels sailing under convoy

Nothing in these Rules shall interfere with the operation of any special rules made by the Government of any nation with respect to the use of additional whistle signals between ships of war or vessels sailing under convoy.

(Pub. L. 88-131, § 4, Sept. 24, 1963, 77 Stat. 207.)

REFERENCES IN TEXT

These Rules, referred to in subsecs. (a), (b), and (d), mean rules 1 to 31 as promulgated by section 4 of Pub. L. 88-131, which are classified to sections 1061, 1062 to 1074, 1076, 1077, 1079 to 1089, 1090, and 1091 to 1093 of this title.

CODIFICATION

Section was enacted as part of section 4 of Pub. L. 88-131, which enacted provisions set out as sections 1053, 1075, 1078, and 1094 of this title, and rules 1 to 31, which are classified to sections 1061, 1062 to 1074, 1076, 1077, 1079 to 1089, 1090, and 1091 to 1093 of this title.

EFFECTIVE DATE

Section effective Sept. 1, 1965, see Proc. No. 3632, Dec. 29, 1964, 29 F.R. 19167, set out as a note under section 1051 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1080 of this title.

SUBCHAPTER VII—MISCELLANEOUS RULES

§ 1091. Usual additional precautions required generally (Rule 29)

Nothing in these Rules shall exonerate any vessel, or the owner, master or crew thereof, from the consequences of any neglect to carry lights or signals, or of any neglect to keep a proper look-out, or of the neglect of any precaution which may be required by the ordinary practice of seamen, or by the special circumstances of the case.

(Pub. L. 88-131, § 4, Sept. 24, 1963, 77 Stat. 208.)

REFERENCES IN TEXT

These Rules, referred to in subsec. (a), mean rules 1 to 31 as promulgated by section 4 of Pub. L. 88-131, which are classified to sections 1061, 1062 to 1074, 1076, 1077, 1079 to 1089, 1090, and 1091 to 1093 of this title.

CODIFICATION

Section was enacted as part of section 4 of Pub. L. 88-131, which enacted provisions set out as sections 1053, 1075, 1078, and 1094 of this title, and rules 1 to 31, which are classified to sections 1061, 1062 to 1074, 1076, 1077, 1079 to 1089, 1090, and 1091 to 1093 of this title.

EFFECTIVE DATE

Subchapter effective Sept. 1, 1965, see Proc. No. 3632, Dec. 29, 1964, 29 F.R. 19167, set out as a note under section 1051 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1080, 1083, 1090 of this title.

§ 1092. Reservation of rules for harbours and inland navigation (Rule 30)

Nothing in these Rules shall interfere with the operation of a special rule duly made by local authority relative to the navigation of any harbour, river, lake, or inland water, including a reserved seaplane area.

(Pub. L. 88-131, § 4, Sept. 24, 1963, 77 Stat. 208.)

REFERENCES IN TEXT

These Rules, referred to in text, mean rules 1 to 31 as promulgated by section 4 of Pub. L. 88-131, which are classified to sections 1061, 1062 to 1074, 1076, 1077, 1079 to 1089, 1090, and 1091 to 1093 of this title.

CODIFICATION

Section was enacted as part of section 4 of Pub. L. 88-131, which enacted provisions set out as sections 1053, 1075, 1078, and 1094 of this title, and rules 1 to 31, which are classified to sections 1061, 1062 to 1074, 1076, 1077, 1079 to 1089, 1090, and 1091 to 1093 of this title.

§ 1093. Distress signals (Rule 31)

(a) When a vessel or seaplane on the water is in distress and requires assistance from other vessels or from the shore, the following shall be the signals to be used or displayed by her, either together or separately, namely—

(i) A gun or other explosive signal fired at intervals of about a minute.

(ii) A continuous sounding with any fog-signalling apparatus.

(iii) Rockets or shells, throwing red stars fired one at a time at short intervals.

(iv) A signal made by radiotelegraphy or by any other signalling method consisting of the group . . . — — — . . . in the Morse Code.

(v) A signal sent by radiotelephony consisting of the spoken word "Mayday".

(vi) The International Code Signal of distress indicated by N.C.

(vii) A signal consisting of a square flag having above or below it a ball or anything resembling a ball.

(viii) Flames on the vessel (as from a burning tar barrel, oil barrel, &c.).

(ix) A rocket parachute flare or a hand flare showing a red light.

(x) A smoke signal giving off a volume of orange-coloured smoke.

(xi) Slowly and repeatedly raising and lowering arms outstretched to each side.

NOTE.—Vessels in distress may use the radiotelegraph alarm signal or the radiotelephone alarm signal to secure attention to distress calls and messages. The radiotelegraph alarm signal, which is designed to actuate the radiotelegraph auto alarms of vessels so fitted, consists of a series of twelve dashes, sent in 1 minute, the duration of each dash being 4 seconds, and the duration of the interval between 2 consecutive dashes being 1 second. The radiotelephone alarm signal consists of 2 tones transmitted alternately over periods of from 30 seconds to 1 minute.

(b) The use of any of the foregoing signals, except for the purpose of indicating that a vessel or seaplane is in distress, and the use of any signals which may be confused with any of the above signals, is prohibited.

(Pub. L. 88-131, § 4, Sept. 24, 1963, 77 Stat. 208.)

CODIFICATION

Section was enacted as part of section 4 of Pub. L. 88-131, which enacted provisions set out as sections 1053, 1075, 1078, and 1094 of this title, and rules 1 to 31, which are classified to sections 1061, 1062 to 1074, 1076, 1077, 1079 to 1089, 1090, and 1091 to 1093 of this title.

SUBCHAPTER VIII—ANNEX TO RULES

§ 1094. Recommendations on the use of radar information as an aid to avoiding collisions at sea

(1) Assumptions made on scanty information may be dangerous and should be avoided.

(2) A vessel navigating with the aid of radar in restricted visibility must, in compliance with section 1077(a) of this title, go at a moderate speed. Information obtained from the use of radar is one of the circumstances to be taken into account when determining moderate speed. In this regard it must be recognised that small vessels, small icebergs and similar floating objects may not be detected by radar. Radar indications of one or more vessels in the vicinity may mean that "moderate speed" should be slower than a mariner without radar might consider moderate in the circumstances.

(3) When navigating in restricted visibility the radar range and bearing alone do not constitute ascertainment of the position of the other vessel under section 1077(b) of this title sufficiently to relieve a vessel of the duty to stop her engines and navigate with caution when a fog signal is heard forward of the beam.

(4) When action has been taken under section 1077(c) of this title to avoid a close quarters situation, it is essential to make sure that such action is having the desired effect. Alterations of course or speed or both are matters as to which the mariner must be guided by the circumstances of the case.

(5) Alteration of course alone may be the most effective action to avoid close quarters provided that—

(a) There is sufficient sea room.

(b) It is made in good time.

(c) It is substantial. A succession of small alterations of course should be avoided.

(d) It does not result in a close quarters situation with other vessels.

(6) The direction of an alteration of course is a matter in which the mariner must be guided by the circumstances of the case. An alteration to starboard, particularly when vessels are approaching apparently on opposite or nearly opposite courses, is generally preferable to an alteration to port.

(7) An alteration of speed, either alone or in conjunction with an alteration of course, should be substantial. A number of small alterations of speed should be avoided.

(8) If a close quarters situation is imminent, the most prudent action may be to take all way off the vessel.

(Pub. L. 88-131, § 4, Sept. 24, 1963, 77 Stat. 209.)

CODIFICATION

Section was enacted as part of section 4 of Pub. L. 88-131, which enacted provisions set out as sections 1053, 1075, 1078, and 1094 of this title, and rules 1 to 31, which are classified to section 1061, 1062 to 1074, 1076, 1077, 1079 to 1089, 1090, and 1091 to 1093 of this title.

EFFECTIVE DATE

Section effective Sept. 1, 1965, see Proc. No. 3632, Dec. 29, 1964, 29 F.R. 19167, set out as a note under section 1051 of this title.

CHAPTER 22—SEA GRANT COLLEGES AND MARINE SCIENCE DEVELOPMENT

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SUBCHAPTER I—MARINE RESOURCES AND ENGINEERING DEVELOPMENT

§ 1101. Congressional declaration of policy and objectives

(a) It is hereby declared to be the policy of the United States to develop, encourage, and maintain a coordinated, comprehensive, and long-range national program in marine science for the benefit of mankind to assist in protection of health and property, enhancement of commerce, transportation, and national security, rehabilitation of our commercial fisheries, and increased utilization of these and other resources.

(b) The marine science activities of the United States should be conducted so as to contribute to the following objectives:

(1) The accelerated development of the resources of the marine environment.

(2) The expansion of human knowledge of the marine environment.

(3) The encouragement of private investment enterprise in exploration, technological development, marine commerce, and economic utilization of the resources of the marine environment.

(4) The preservation of the role of the United States as a leader in marine science and resource development.

(5) The advancement of education and training in marine science.

(6) The development and improvement of the capabilities, performance, use, and efficiency of vehicles, equipment, and instruments for use in exploration, research, surveys, the recovery of resources, and the transmission of energy in the marine environment.

(7) The effective utilization of the scientific and engineering resources of the Nation, with close cooperation among all interested agencies, public and private, in order to avoid unnecessary duplication of effort, facilities, and equipment, or waste.

(8) The cooperation by the United States with other nations and groups of nations and international organizations in marine science activities when such cooperation is in the national interest.

(Pub. L. 89-454, title I, § 2, June 17, 1966, 80 Stat. 203.)

Short Title

Section 1 of Pub. L. 89-454, as renumbered and amended by Pub. L. 89-688, § 2(a), Oct. 15, 1966, 80 Stat. 1001, provided that: "This title [enacting this subchapter] may be cited as the 'Marine Resources and Engineering Development Act of 1966'."

Section Referred to in Other Sections

This section is referred to in section 1103 of this title.

§ 1102. Omitted

Codification

Section, Pub. L. 89-454, title I, § 3, June 17, 1966, 80 Stat. 204; Pub. L. 89-670, § 8(j), Oct. 15, 1966, 80 Stat. 943; Pub. L. 90-242, § 2, Jan. 2, 1968, 81 Stat. 780; Pub. L. 91-15, § 1, May 23, 1969, 83 Stat. 10; Pub. L. 91-414, Sept. 25, 1970, 84 Stat. 865, which established the National Council on Marine Resources and Engineering Development, was omitted in view of the expiration of the provisions of this chapter with respect to the Council on June 30, 1971, and the termination of the Council on Apr. 30, 1971, for lack of funds.

§ 1103. Executive responsibilities; utilization of staff, interagency, and non-Government advisory arrangements; consultation with agencies; solicitation of views of non-Federal agencies

(a) In conformity with the provisions of section 1101 of this title, it shall be the duty of the President with the advice and assistance of the Council to—

(1) survey all significant marine science activities, including the policies, plans, programs, and accomplishments of all departments and agencies of the United States engaged in such activities;

(2) develop a comprehensive program of marine science activities, including, but not limited to, exploration, description and prediction of the marine environment, exploitation and conservation of the resources of the marine environment, marine engineering, studies of air-sea interaction, transmission of energy, and communications, to be conducted by departments and agencies of the United States, independently or in cooperation with such non-Federal organizations as States, institutions and industry;

(3) designate and fix responsibility for the conduct of the foregoing marine science activities by departments and agencies of the United States;

(4) insure cooperation and resolve differences arising among departments and agencies of the United States with respect to marine science activities under this subchapter, including differences as to whether a particular project is a marine science activity;

(5) undertake a comprehensive study, by contract or otherwise, of the legal problems arising out of the management, use, development, recovery, and control of the resources of the marine environment;

(6) establish long-range studies of the potential benefits to the United States economy, security, health, and welfare to be gained from marine resources, engineering, and science, and the costs involved in obtaining such benefits; and

(7) review annually all marine science activities conducted by departments and agencies of the United States in light of the policies, plans, programs, and priorities developed pursuant to this chapter.

(b) In the planning and conduct of a coordinated Federal program the President and the Council shall utilize such staff, interagency, and non-Government advisory arrangements as they may find necessary and appropriate and shall consult with departments and agencies concerned with marine science activities and solicit the views of non-Federal organizations and individuals with capabilities in marine sciences.

(Pub. L. 89-454, title I, § 4, June 17, 1966, 80 Stat. 205; Pub. L. 89-688, § 2(b), Oct. 15, 1966, 80 Stat. 1001.)

AMENDMENTS

1966—Subsec. (a). Pub. L. 89-688 in par. (4), substituted "this title" for "this Act", which, for purposes of codification has been changed to "this subchapter".

TERMINATION OF COUNCIL

The National Council on Marine Resources and Engineering, established under section 1102 of this title, terminated Apr. 30, 1971, for lack of funds. See Codification note set out under section 1102 of this title.

§§ 1104, 1105. Omitted

CODIFICATION

Section 1104, Pub. L. 89-454, title I, § 5, June 17, 1966, 80 Stat. 205; Pub. L. 89-688, § 2(b), Oct. 15, 1966, 80 Stat. 1001; Pub. L. 90-242, § 1, Jan. 2, 1968, 81 Stat. 780, which established the Commission on Marine Science, Engineering, and Resources, was omitted in view of the expiration of the Commission. See Codification note set out under section 1102 of this title.

Section 1105, Pub. L. 89-454, title I, § 6, June 17, 1966, 80 Stat. 207, which provided for the National Council on Marine Resources and Engineering Development to coordinate a program of international cooperation with respect to work done pursuant to this chapter, was omitted in view of the expiration of the Council. See Codification Note set out under section 1102 of this title.

§ 1106. Reports to Congress

(a) The President shall transmit to the Congress in January of each year a report, which shall include (1) a comprehensive description of the activities and the accomplishments of all agencies and departments of the United States in the field of marine science during the preceding fiscal year, and (2) an evaluation of such activities and accomplishments in terms of the objectives set forth pursuant to this chapter.

(b) Reports made under this section shall contain such recommendations for legislation as the President may consider necessary or desirable for the attainment of the objectives of this chapter, and shall contain an estimate of funding requirements of each agency and department of the United States for marine science activities during the succeeding fiscal year.

(Pub. L. 89-454, title I, § 7, June 17, 1966, 80 Stat. 207.)

§ 1107. Definitions

For the purposes of this subchapter, the term "marine science" shall be deemed to apply to oceanographic and scientific endeavors and disciplines, and engineering and technology in and with relation to the marine environment; and the term "marine environment" shall be deemed to include (a) the oceans, (b) the Continental Shelf of the United States, (c) the Great Lakes, (d) seabed and subsoil of the submarine areas adjacent to the coasts of the United States to the depth of two hundred meters, or beyond that limit, to where the depths of the superjacent waters admit of the exploitation of the natural resources of such areas, (e) the seabed and subsoil of similar submarine areas adjacent to the coasts of islands which comprise United States territory, and (f) the resources thereof.

(Pub. L. 89-454, title I, § 8, June 17, 1966, 80 Stat. 208; Pub. L. 89-688, § 2(b), Oct. 15, 1966, 80 Stat. 1001.)

AMENDMENTS

1966—Pub. L. 89-688 substituted "this title" for "this Act", which, for purposes of codification, had been changed to "this subchapter".

§ 1108. Authorization of appropriations

There are hereby authorized to be appropriated such sums as may be necessary to carry out this subchapter, but sums appropriated for any one fiscal year shall not exceed $1,200,000.

(Pub. L. 89-454, title I, § 9, June 17, 1966, 80 Stat. 208; Pub. L. 89-688, § 2(b), Oct. 15, 1966, 80 Stat. 1001; Pub. L. 91-15, § 2, May 23, 1969, 83 Stat. 10.)

AMENDMENTS

1969—Pub. L. 91-15 substituted "$1,200,000" for "$1,500,000".

1966—Pub. L. 89-688 substituted "this title" for "this Act", which, for purposes of codification, had been changed to "this subchapter".

SUBCHAPTER II—NATIONAL SEA GRANT PROGRAM

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in title 22 section 2220a.

§ 1121. Congressional declaration of policy

(a) Findings

The Congress finds and declares the following:

(1) The vitality of the Nation and the quality of life of its citizens depend increasingly on the understanding, assessment, development, utilization, and conservation of ocean and coastal resources. These resources supply food, energy, and minerals and contribute to human health, the quality of the environment, national security, and the enhancement of commerce.

(2) The understanding, assessment, development, utilization, and conservation of such resources require a broad commitment and an intense involvement on the part of the Federal Government in continuing partnership with State and local governments, private industry, universities, organizations, and individuals concerned with or affected by ocean and coastal resources.

(3) The National Oceanic and Atmospheric Administration, through the national sea grant program, offers the most suitable locus and means for such commitment and involvement through the promotion of activities that will result in greater such understanding, assessment, development, utilization, and

conservation. Continued and increased Federal support of the establishment, development, and operation of programs and projects by sea grant colleges, sea grant regional consortia, institutions of higher education, institutes, laboratories, and other appropriate public and private entities is the most cost-effective way to promote such activities.

(b) Objective

The objective of this subchapter is to increase the understanding, assessment, development, utilization, and conservation of the Nation's ocean and coastal resources by providing assistance to promote a strong educational base, responsive research and training activities, and broad and prompt dissemination of knowledge and techniques.

(c) Purpose

It is the purpose of the Congress to achieve the objective of this subchapter by extending and strengthening the national sea grant program, initially established in 1966, to promote research, education, training, and advisory service activities in fields related to ocean and coastal resources.

(Pub. L. 89-454, title II, § 202, as added Pub. L. 89-688, § 1, Oct. 15, 1966, 80 Stat. 998, and amended Pub. L. 94-461, § 2, Oct. 8, 1976, 90 Stat. 1961.)

AMENDMENTS

1976—Pub. L. 94-461 completely rewrote the Congressional statement of findings, objectives, and purposes of the National Sea Grant Program Act to reflect the extension and strengthening of the national sea grant program to promote research, education, training, and advisory service activities in fields related to ocean and coastal resources through federal support to sea grant colleges, sea grant regional consortia, and other institutions through the National Oceanic and Atmospheric Administration, and to make education, training, research, and advisory services responsive to state, local, regional, or national needs and problems.

SHORT TITLE OF 1976 AMENDMENT

Section 1 of Pub. L. 94-461 provided: "That this Act [enacting sections 1124a, 1125, 1126, 1127, 1128, 1129, 1130, and 1131 of this title and amending this section, sections 1122, 1123, and 1124 of this title, sections 5314 and 5315 of Title 5, Government Organization and Employees, and provisions set out as notes under this section, section 1511 of Title 15, Commerce and Trade, and in the Appendix to Title 5, Government Organization and Employees] may be cited as the 'Sea Grant Program Improvement Act of 1976'."

SHORT TITLE

Section 201 of Pub. L. 89-454, as added by section 1 of Pub. L. 89-688, and amended by Pub. L. 94-461, § 2, Oct. 8, 1976, 90 Stat. 1961, provided that: "This Act [which enacted this subchapter] may be cited as the 'National Sea Grant Program Act'."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1123, 1124 of this title.

§ 1122. Definitions

As used in this subchapter—

(1) The term "Administration" means the National Oceanic and Atmospheric Administration.

(2) The term "Administrator" means the Administrator of the National Oceanic and Atmospheric Administration.

(3) The term "Director" means the Director of the national sea grant program, appointed pursuant to section 1123(b) of this title.

(4) The term "field related to ocean and coastal resources" means any discipline or field (including marine science (and the physical, natural, and biological sciences, and engineering, included therein), marine technology, education, economics, sociology, communications, planning, law, international affairs, and public administration) which is concerned with or likely to improve the understanding, assessment, development, utilization, or conservation of ocean and coastal resources.

(5) The term "includes" and variants thereof should be read as if the phrase "but is not limited to" were also set forth.

(6) The term "marine environment" means the coastal zone, as defined in section 1453(1) of title 16; the seabed, subsoil, and waters of the territorial sea of the United States; the waters of any zone over which the United States asserts exclusive fishery management authority; the waters of the high seas; and the seabed and subsoil of and beyond the outer Continental Shelf.

(7) The term "ocean and coastal resource" means any resource (whether living, nonliving, manmade, tangible, intangible, actual, or potential) which is located in, derived from, or traceable to, the marine environment. Such term includes the habitat of any such living resource, the coastal space, the ecosystems, the nutrient-rich areas, and the other components of the marine environment which contribute to or provide (or which are capable of contributing to or providing) recreational, scenic, esthetic, biological, habitational, commercial, economic, or conservation values. Living resources include natural and cultured plant life, fish, shellfish, marine mammals, and wildlife. Nonliving resources include energy sources, minerals, and chemical substances.

(8) The term "panel" means the sea grant review panel established under section 1128 of this title.

(9) The term "person" means any individual; any public or private corporation, partnership, or other association or entity (including any sea grant college, sea grant regional consortium, institution of higher education, institute, or laboratory); or any State, political subdivision of a State, or agency or officer thereof.

(10) The term "sea grant college" means any public or private institution of higher education which is designated as such by the Secretary under section 1126 of this title.

(11) The term "sea grant program" means any program which—

(A) is administered by any sea grant college, sea grant regional consortium, institution of higher education, institute, laboratory, or State or local agency; and

(B) includes two or more projects involving one or more of the following activities

in fields related to ocean and coastal resources:

(i) research,

(ii) education,

(iii) training, or

(iv) advisory services.

(12) The term "sea grant regional consortium" means any association or other alliance which is designated as such by the Secretary under section 1126 of this title.

(13) The term "Secretary" means the Secretary of Commerce.

(14) The term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Mariana Islands, or any other territory or possession of the United States.

(Pub. L. 89-454, title II, § 203, as added Pub. L. 89-688, § 1, Oct. 15, 1966, 80 Stat. 999, and amended Pub. L. 90-477, § 1(1), Aug. 11, 1968, 82 Stat. 704; Pub. L. 91-349, July 23, 1970, 84 Stat. 448; Pub. L. 93-73, § 1(1), (5), July 10, 1973, 87 Stat. 170; Pub. L. 94-461, § 2, Oct. 8, 1976, 90 Stat. 1962.)

AMENDMENTS

1976—Pub. L. 94-461 substituted provisions defining terms used in this subchapter for provisions designating the Secretary of Commerce as the administering authority for the national sea grant program and authorizing appropriations through fiscal 1976.

1973—Subsec. (a). Pub. L. 93-73, § 1(5), substituted "Secretary of Commerce" and "Secretary" for "National Science Foundation" and "Foundation".

Subsec. (b)(1). Pub. L. 93-73, § 1(1), (5), authorized appropriations of $30,000,000; $40,000,000; and $50,000,000 for fiscal years ending June 30, 1974, 1975, and 1976, and substituted "Secretary" for "Foundation".

1970—Subsec. (b)(1). Pub. L. 91-349 authorized appropriations for the fiscal year ending June 30, 1971, not to exceed the sum of $20,000,000, for the fiscal year ending June 30, 1972, not to exceed the sum of $25,000,000, and for the fiscal year ending June 30, 1973, not to exceed the sum of $30,000,000.

1968—Subsec. (b)(1). Pub. L. 90-477 authorized appropriations for the fiscal year ending June 30, 1969, not to exceed the sum of $6,000,000, and for the fiscal year ending June 30, 1970, not to exceed the sum of $15,000,000.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1124a of this title; title 42 section 1875.

§ 1123. Establishment and administration of program

(a) Maintenance within Administration; component elements

The Secretary shall maintain, within the Administration, a program to be known as the national sea grant program. The national sea grant program shall consist of the financial assistance and other activities provided for in this subchapter. The Secretary shall establish long-range planning guidelines and priorities for, and adequately evaluate, this program.

(b) Appointment and compensation of Director

(1) The Secretary shall appoint a Director of the national sea grant program who shall be a qualified individual who has—

(A) knowledge or expertise in fields related to ocean and coastal resources; and

(B) appropriate administrative experience.

(2) The Director shall be appointed and compensated, without regard to the provisions of title 5 governing appointments in the competitive service, at a rate not in excess of the maximum rate for GS-18 of the General Schedule under section 5332 of such title.

(c) Duties of Director

The Director shall administer the national sea grant program subject to the supervision of the Secretary and the Administrator. In addition to any other duty prescribed by law or assigned by the Secretary, the Director shall—

(1) apply the long-range planning guidelines and the priorities established by the Secretary under subsection (a) of this section;

(2) advise the Administrator with respect to the expertise and capabilities which are available within or through the national sea grant program, and provide (as directed by the Administrator) those which are or could be of use to other offices and activities within the Administration;

(3) evaluate activities conducted under grants and contracts awarded pursuant to sections 1124 and 1125 of this title to assure that the objective set forth in section 1121(b) of this title is implemented;

(4) encourage other Federal departments, agencies, and instrumentalities to use and take advantage of the expertise and capabilities which are available through the national sea grant program, on a cooperative or other basis;

(5) advise the Secretary on the designation of sea grant colleges and sea grant regional consortia and, in appropriate cases, if any, on the termination or suspension of any such designation; and

(6) encourage the formation and growth of sea grant programs.

(d) Powers of Secretary

To carry out the provisions of this subchapter, the Secretary may—

(1) appoint, assign the duties, transfer, and fix the compensation of such personnel as may be necessary, in accordance with the civil service laws; except that five positions may be established without regard to the provisions of title 5 governing appointments in the competitive service, but the pay rates for such positions may not exceed the maximum rate for GS-18 of the General Schedule under section 5332 of such title;

(2) make appointments with respect to temporary and intermittent services to the same extent as is authorized by section 3109 of title 5;

(3) publish or arrange for the publication of, and otherwise disseminate, in cooperation with other services, offices, and programs in the Administration, any information of research, educational, training, and other value in fields related to ocean and coastal resources and with respect to ocean and coastal resources, without regard to section 501 of title 44;

(4) enter into contracts, cooperative agreements, and other transactions without regard to section 5 of title 41;

(5) accept donations and voluntary and uncompensated services, notwithstanding section 665(b) of title 31; and

(6) issue such rules and regulations as may be necessary and appropriate.

(Pub. L. 89-454, title II, § 204, as added Pub. L. 89-688, § 1, Oct. 15, 1966, 80 Stat. 999, and amended Pub. L. 90-477, § 1(2), Aug. 11, 1968, 82 Stat. 704; Pub. L. 93-73, § 1(2)-(7), July 10, 1973, 87 Stat. 170; Pub. L. 94-461, § 2, Oct. 8, 1976, 90 Stat. 1963.)

AMENDMENTS

1976—Pub. L. 94-461 substituted provisions covering the establishment and administration of the national sea grant program for provisions covering the marine resource development programs.

1973—Subsec. (a). Pub. L. 93-73, § 1(2), (5), deleted item (1) designation for provision respecting consultation with experts and Federal agencies, deleted item (2) provision for seeking advice and counsel from the National Council on Marine Resources and Engineering Development, and substituted "Secretary" for "Foundation".

Subsec. (b). Pub. L. 93-73, § 1(5), substituted "Secretary" for "Foundation" and "his authority" for "its authority".

Subsec. (d)(1). Pub. L. 93-73, § 1(3), (5), authorized federal contributions exceeding percentage limitation to programs limited to one percent of appropriations for the fiscal year when reducing or eliminating matching payments by a participant when Secretary determines it would be inequitable relevant to the benefits derived by the participant from the program to require the participant to make a one-third payment of the cost, and substituted "Secretary" for "Foundation" in last sentence.

Subsec. (d)(2). Pub. L. 93-73, § 1(4), (5), made the prohibitions of the paragraph inapplicable to non-self-propelled habitats, buoys, platforms, or other similar devices or structures, used principally for research purposes and substituted "Secretary" for "foundation".

Subsec. (d)(3). Pub. L. 93-73, § 1(5), substituted "Secretary" for "Foundation".

Subsec. (e). Pub. L. 93-73, § 1(5), substituted "Secretary" for "Foundation".

Subsec. (f). Pub. L. 93-73, § 1(5), substituted "Secretary" for "Foundation" and "his functions" for "its functions".

Subsec. (g). Pub. L. 93-73, § 1(6), substituted provisions for exercise of powers and authority under this subchapter by the Secretary rather than the Foundation under the powers and authority of the National Science Foundation Act of 1950, as amended.

Subsec. (h). Pub. L. 93-73, § 1(5), substituted "Secretary" for "Foundation" and "his functions" for "its functions".

Subsec. (l)(3). Pub. L. 93-73, § 1(7), inserted after "marine resources" the words "and which is so designated by the Secretary".

Subsec. (l)(4). Pub. L. 93-73, § 1(5), substituted "Secretary" for "Foundation" in cls. (A) to (C).

1968—Subsec. (d)(1). Pub. L. 90-477 struck out "in any fiscal year" following "The total amount of payments" and "by any participants".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1122, 1128 of this title.

§ 1124. Program or project grants and contracts

(a) Authorization; purposes; limitation on amount

The Secretary may make grants and enter into contracts under this subsection to assist any sea grant program or project if the Secretary finds that such program or project will—

(1) implement the objective set forth in section 1121(b) of this title; and

(2) be responsive to the needs or problems of individual States or regions.

The total amount paid pursuant to any such grant or contract may equal 66⅔ percent, or any lesser percent, of the total cost of the sea grant program or project involved.

(b) Special grants; maximum amount; prerequisites

The Secretary may make special grants under this subsection to implement the objective set forth in section 1121(b) of this title. The amount of any such grant may equal 100 percent, or any lesser percent, of the total cost of the project involved. No grant may be made under this subsection unless the Secretary finds that—

(1) no reasonable means is available through which the applicant can meet the matching requirement for a grant under subsection (a) of this section;

(2) the probable benefit of such project outweighs the public interest in such matching requirement; and

(3) the same or equivalent benefit cannot be obtained through the award of a contract or grant under subsection (a) of this section or section 1125 of this title.

The total amount which may be provided for grants under this subsection during any fiscal year shall not exceed an amount equal to 1 percent of the total funds appropriated for such year pursuant to section 1131 of this title.

(c) Eligibility and procedure

Any person may apply to the Secretary for a grant or contract under this section. Application shall be made in such form and manner, and with such content and other submissions, as the Secretary shall by regulation prescribe. The Secretary shall act upon each such application within 6 months after the date on which all required information is received.

(d) Terms and conditions

(1) Any grant made, or contract entered into, under this section shall be subject to the limitations and provisions set forth in paragraphs (2), (3), and (4) and to such other terms, conditions, and requirements as the Secretary deems necessary or appropriate.

(2) No payment under any grant or contract under this section may be applied to—

(A) the purchase or rental of any land; or

(B) the purchase, rental, construction, preservation, or repair of any building, dock, or vessel;

except that payment under any such grant or contract may, if approved by the Secretary, be applied to the purchase, rental, construction, preservation, or repair of non-self-propelled habitats, buoys, platforms, and other similar devices or structures, or to the rental of any research vessel which is used in direct support of activities under any sea grant program or project.

(3) The total amount which may be obligated for payment pursuant to grants made to, and contracts entered into with, persons under this section within any one State in any fiscal year shall not exceed an amount equal to 15 percent

of the total funds appropriated for such year pursuant to section 1131 of this title.

(4) Any person who receives or utilizes any proceeds of any grant or contract under this section shall keep such records as the Secretary shall by regulation prescribe as being necessary and appropriate to facilitate effective audit and evaluation, including records which fully disclose the amount and disposition by such recipient of such proceeds, the total cost of the program or project in connection with which such proceeds were used, and the amount, if any, of such cost which was provided through other sources. Such records shall be maintained for 3 years after the completion of such a program or project. The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access, for the purpose of audit and evaluation, to any books, documents, papers, and records of receipts which, in the opinion of the Secretary or of the Comptroller General, may be related or pertinent to such grants and contracts.

(Pub. L. 89-454, title II, § 205, as added Pub. L. 89-688, § 1, Oct. 15, 1966, 80 Stat. 1001, and amended Pub. L. 93-73, § 1(8), July 10, 1973, 87 Stat. 170; Pub. L. 94-461, § 2, Oct. 8, 1976, 90 Stat. 1964.)

AMENDMENTS

1976—Pub. L. 94-461 substituted provisions covering program or project grants and contracts for provisions authorizing the study of ways to share with other countries the results of marine research useful in the exploration, development, conservation, and management of marine resources.

1973—Pub. L. 93-73 substituted provisions for study of international marine technology transfer for prior provisions respecting advisory functions of National Council on Marine Resources and Development.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1123, 1124a, 1125, 1126, 1128 of this title.

§ 1124a. Contracts and grants for international cooperation

(a) Authorization; purposes

The Secretary of Commerce (hereafter in this section referred to as the "Secretary") may enter into contracts and make grants under this section to—

(1) enhance the research and development capability of developing foreign nations with respect to ocean and coastal resources, as such term is defined in section 1122 of this title; and

(2) promote the international exchange of information and data with respect to the assessment, development, utilization, and conservation of such resources.

(b) Eligibility and procedure

Any sea grant college and sea grant regional consortium (as defined in section 1122 of this title) and any institution of higher education, laboratory, or institute (if such institution, laboratory, or institute is located within any State (as defined in such section 1122 of this title)) may apply for and receive financial assistance under this section. Each grant or contract under this section shall be made pursuant to such requirements as the Secretary shall, after consultation with the Secretary of State, by regulation prescribe. Application shall be made in such form, and with such content and other submissions, as may be so required. Before approving any application for a grant or contract under this section, the Secretary shall consult with the Secretary of State. Any grant made, or contract entered into, under this section shall be subject to the limitations and provisions set forth in section 1124(d)(2) and (4) of this title and to such other terms, conditions, and requirements as the Secretary deems necessary or appropriate.

(c) Authorization of appropriations

There is authorized to be appropriated for purposes of carrying out this section not to exceed $3,000,000 for the fiscal year ending September 30, 1977. Such sums as may be appropriated under this section shall remain available until expended.

(Pub. L. 94-461, § 3, Oct. 8, 1976, 90 Stat. 1969.)

CODIFICATION

Section was enacted as part of the Sea Grant Program Improvement Act of 1976 and not as part of the National Sea Grant Program Act which comprises this subchapter.

§ 1125. National project grants or contracts

(a) Authorization; purposes; limitation on amounts

The Secretary shall identify specific national needs and problems with respect to ocean and coastal resources. The Secretary may make grants or enter into contracts under this section with respect to such needs or problems. The amount of any such grant or contract may equal 100 percent, or any lesser percent, of the total cost of the project involved.

(b) Eligibility and procedure

Any person may apply to the Secretary for a grant or contract under this section. In addition, the Secretary may invite applications with respect to specific national needs or problems identified under subsection (a) of this section. Application shall be made in such form and manner, and with such content and other submissions, as the Secretary shall by regulation prescribe. The Secretary shall act upon each such application within 6 months after the date on which all required information is received. Any grant made, or contract entered into, under this section shall be subject to the limitations and provisions set forth in section 1124(d)(2) and (4) of this title and to such other terms, conditions, and requirements as the Secretary deems necessary or appropriate.

(c) Authorization of appropriations

There is authorized to be appropriated for purposes of carrying out this section not to exceed $5,000,000 for the fiscal year ending September 30, 1977. Such sums as may be appropriated pursuant to this subsection shall remain available until expended. The amounts obligated to be expended for the purposes set forth in subsection (a) of this section shall not, in any fiscal year, exceed an amount equal to 10 percent of the sums appropriated for such year pursuant to section 1131 of this title.

(Pub. L. 89-454, title II, § 206, as added Pub. L. 94-461, § 2, Oct. 8, 1976, 90 Stat. 1965.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1123, 1124, 1128, 1131 of this title.

§ 1126. Designation of sea grant colleges and sea grant regional consortia

(a) Authorization; prerequisites

(1) The Secretary may designate—

(A) any institution of higher education as a sea grant college; and

(B) any association or other alliance of two or more persons (other than individuals) as a sea grant regional consortium.

(2) No institution of higher education may be designated as a sea grant college unless the Secretary finds that such institution—

(A) is maintaining a balanced program of research, education, training, and advisory services in fields related to ocean and coastal resources and has received financial assistance under section 1124 of this title or under section 204(c) of the National Sea Grant College and Program Act of 1966;

(B) will act in accordance with such guidelines as are prescribed under subsection (b)(2) of this section; and

(C) meets such other qualifications as the Secretary deems necessary or appropriate.

The designation of any institution as a sea grant college under the authority of such Act of 1966 shall, if such designation is in effect on the day before October 8, 1976, be considered to be a designation made under paragraph (1) so long as such institution complies with subparagraphs (B) and (C).

(3) No association or other alliance of two or more persons may be designated as a sea grant regional consortium unless the Secretary finds that such association or alliance—

(A) is established for the purpose of sharing expertise, research, educational facilities, or training facilities, and other capabilities in order to facilitate research, education, training, and advisory services, in any field related to ocean and coastal resources;

(B) will encourage and follow a regional approach to solving problems or meeting needs relating to ocean and coastal resources, in cooperation with appropriate sea grant colleges, sea grant programs, and other persons in the region;

(C) will act in accordance with such guidelines as are prescribed under subsection (b)(2) of this section; and

(D) meets such other qualifications as the Secretary deems necessary or appropriate.

(b) Regulations

The Secretary shall by regulation prescribe—

(1) the qualifications required to be met under paragraphs (2)(C) and (3)(D) of subsection (a) of this section; and

(2) guidelines relating to the activities and responsibilities of sea grant colleges and sea grant regional consortia.

(c) Suspension or termination; procedures applicable

The Secretary may, for cause and after an opportunity for hearing, suspend or terminate any designation under subsection (a) of this section.

(Pub. L. 89-454, title II, § 207, as added Pub. L. 94-461, § 2, Oct. 8, 1976, 90 Stat. 1966.)

REFERENCES IN TEXT

The National Sea Grant College and Program Act of 1966, referred to in subsec. (a), was the name of title II of Pub. L. 89-454, as added by Pub. L. 89-688, § 1, Oct. 15, 1966, 80 Stat. 998, prior to the 1976 amendment thereof by Pub. L. 94-461. Section 204(c) of the National Sea Grant College and Program Act of 1966, referred to in subsec. (a)(2)(A), therefore means section 1123(c) of this title prior to the amendment thereof by Pub. L. 94-461.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1122 of this title.

§ 1127. Fellowships; establishment of program; guidelines for awards; maximum amount

(a) In general

The Secretary shall support a sea grant fellowship program to provide educational and training assistance to qualified individuals at the undergraduate and graduate levels of education in fields related to ocean and coastal resources. Such fellowships shall be awarded pursuant to guidelines established by the Secretary. Sea grant fellowships may only be awarded by sea grant colleges, sea grant regional consortia, institutions of higher education, and professional associations and institutes.

(b) Limitation on total fellowship grants

The total amount which may be provided for grants under the sea grant fellowship program during any fiscal year shall not exceed an amount equal to 5 percent of the total funds appropriated for such year pursuant to section 1131 of this title.

(Pub. L. 89-454, title II, § 208, as added Pub. L. 94-461, § 2, Oct. 8, 1976, 90 Stat. 1966.)

§ 1128. Sea grant review panel

(a) Establishment; commencement date

There shall be established an independent committee to be known as the sea grant review panel. The panel shall, on the 60th day after October 8, 1976, supersede the sea grant advisory panel in existence before October 8, 1976.

(b) Duties

The panel shall take such steps as may be necessary to review, and shall advise the Secretary, the Administrator, and the Director with respect to—

(1) applications or proposals for, and performance under, grants and contracts awarded under sections 1124 and 1125 of this title;

(2) the sea grant fellowship program;

(3) the designation and operation of sea grant colleges and sea grant regional consortia, and the operation of sea grant programs;

(4) the formulation and application of the planning guidelines and priorities under section 1123(a) and (c)(1) of this title; and

(5) such other matters as the Secretary refers to the panel for review and advice.

The Secretary shall make available to the panel such information, personnel, and administrative services and assistance as it may reasonably require to carry out its duties.

(c) Membership, terms, and powers

(1) The panel shall consist of 15 voting members who shall be appointed by the Secretary. The Director shall serve as a nonvoting member of the panel. Not less than five of the voting members of the panel shall be individuals who, by reason of knowledge, experience, or training, are especially qualified in one or more of the disciplines and fields included in marine science. The other voting members shall be individuals who, by reason of knowledge, experience, or training, are especially qualified in, or representative of, education, extension services, State government, industry, economics, planning, or any other activity which is appropriate to, and important for, any effort to enhance the understanding, assessment, development, utilization, or conservation of ocean and coastal resources. No individual is eligible to be a voting member of the panel if the individual is (A) the director of a sea grant college, sea grant regional consortium, or sea grant program; (B) an applicant for, or beneficiary (as determined by the Secretary) of, any grant or contract under section 1124 or 1125 of this title; or (C) a full-time officer or employee of the United States.

(2) The term of office of a voting member of the panel shall be 3 years, except that of the original appointees, five shall be appointed for a term of 1 year, five shall be appointed for a term of 2 years, and five shall be appointed for a term of 3 years.

(3) Any individual appointed to fill a vacancy occurring before the expiration of the term for which his or her predecessor was appointed shall be appointed only for the remainder of such term. No individual may be appointed as a voting member after serving one full term as such a member. A voting member may serve after the date of the expiration of the term of office for which appointed until his or her successor has taken office, or until 90 days after such date, whichever is earlier.

(4) The panel shall select one voting member to serve as the Chairman and another voting member to serve as the Vice Chairman. The Vice Chairman shall act as Chairman in the absence or incapacity of the Chairman.

(5) Voting members of the panel shall—

(A) receive compensation at the daily rate for GS–18 of the General Schedule under section 5332 of title 5 when actually engaged in the performance of duties for such panel; and

(B) be reimbursed for actual and reasonable expenses incurred in the performance of such duties.

(6) The panel shall meet on a biannual basis and, at any other time, at the call of the Chairman or upon the request of a majority of the voting members or of the Director.

(7) The panel may exercise such powers as are reasonably necessary in order to carry out its duties under subsection (b) of this section.

(Pub. L. 89–454, title II, § 209, as added Pub. L. 94–461, § 2, Oct. 8, 1976, 90 Stat. 1967.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1122 of this title.

§ 1129. Interagency cooperation

Each department, agency, or other instrumentality of the Federal Government which is engaged in or concerned with, or which has authority over, matters relating to ocean and coastal resources—

(1) may, upon a written request from the Secretary, make available, on a reimbursable basis or otherwise any personnel (with their consent and without prejudice to their position and rating), service, or facility which the Secretary deems necessary to carry out any provision of this subchapter;

(2) shall, upon a written request from the Secretary, furnish any available data or other information which the Secretary deems necessary to carry out any provision of this subchapter; and

(3) shall cooperate with the Administration and duly authorized officials thereof.

(Pub. L. 89–454, title II, § 210, as added Pub. L. 94–461, § 2, Oct. 8, 1976, 90 Stat. 1968.)

§ 1130. Report on activities

(a) Annual report

The Secretary shall submit to the Congress and the President, not later than February 15 of each year, a report on the activities of, and the outlook for, the national sea grant program.

(b) Evaluation

The Director of the Office of Management and Budget and the Director of the Office of Science and Technology Policy, in the Executive Office of the President, shall have the opportunity to review each report prepared pursuant to subsection (a) of this section. Such Directors may submit, for inclusion in such report, comments and recommendations and an independent evaluation of the national sea grant program. Such material shall be transmitted to the Secretary not later than February 1 of each year, and the Secretary shall cause it to be published as a separate section in the annual report submitted pursuant to subsection (a) of this section.

(Pub. L. 89–454, title II, § 211, as added Pub. L. 94–461, § 2, Oct. 8, 1976, 90 Stat. 1968.)

§ 1131. Authorization of appropriations

There is authorized to be appropriated for purposes of carrying out the provisions of this subchapter (other than section 1125 of this title) not to exceed $50,000,000 for the fiscal year ending September 30, 1977. Such sums as may be appropriated under this section shall remain available until expended.

(Pub. L. 89–454, title II, § 212, as added Pub. L. 94–461, § 2, Oct. 8, 1976, 90 Stat. 1968.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1124, 1125, 1127 of this title.

CHAPTER 23—POLLUTION CONTROL OF NAVIGABLE WATERS

§§ 1151 to 1165. Omitted

CODIFICATION

Section 1151, acts June 30, 1948, ch. 758, § 1, 62 Stat. 1155; July 9, 1956, ch. 518, § 1, 70 Stat. 498; July 20, 1961, Pub. L. 87-88, § 1(a), 75 Stat. 204; Oct. 2, 1965, Pub. L. 89-234, § 1(a), 79 Stat. 903; 1966 Reorg. Plan No. 2, §§ 1(a), (e)(1), 5, eff. May 10, 1966, 31 F.R. 6857, 80 Stat. 1608; 1970 Reorg. Plan No. 3, § 2(a)(1), eff. Dec. 2, 1970, 35 F.R. 15623, 84 Stat. 2087, related to the Congressional declaration of policy in controlling water pollution, and was omitted from the Code as superseded by Pub. L. 92-500, § 2, Oct. 18, 1972, 86 Stat. 816. See section 1251 et seq. of this title.

Section 1152, act June 30, 1948, ch. 758, § 2, as added Oct. 2, 1965, Pub. L. 89-234, § 2(a), 79 Stat. 903, and amended 1966 Reorg. Plan No. 2, § 1(a), (b), eff. May 10, 1966, 31 F.R. 6857, 80 Stat. 1608; Apr. 3, 1970, Pub. L. 91-224, title I, § 110(a), 84 Stat. 113, created within the Department of the Interior a Federal Water Quality Administration. Reorg. Plan No. 3 of 1970, §§ 1, 2(a)(1), 6(a)(1), eff. Dec. 2, 1970, 35 F.R. 15623, 84 Stat. 2086, 2087, 2089, created the Environmental Protection Agency, abolished the Federal Water Quality Administration in the Department of the Interior, and transferred to the Administrator of the Environmental Protection Agency all functions vested by law in the Secretary of the Interior and the Department of the Interior which had been administered through the Federal Water Quality Administration.

Section 1153, acts June 30, 1948, ch. 758, § 3, formerly § 2, 62 Stat. 1155; July 9, 1956, ch. 518, § 1, 70 Stat. 498; July 20, 1961, Pub. L. 87-88, §§ 1(b), 2, 75 Stat. 204; renumbered Oct. 2, 1965, Pub. L. 89-234, § 2(a), 79 Stat. 903, and amended Nov. 3, 1966, Pub. L. 89-753, title I, § 101, 80 Stat. 1246; 1970 Reorg. Plan No. 3, § 2(a)(1), eff. Dec. 2, 1970, 35 F.R. 15623, 84 Stat. 2086, related to the preparation and development of comprehensive water pollution programs, and was omitted from the Code as superseded by Pub. L. 92-500, § 2, Oct. 18, 1972, 86 Stat. 816. See section 1251 et seq. of this title.

Section 1154, acts June 30, 1948, ch. 758, § 4, formerly § 3, 62 Stat. 1157; July 9, 1956, ch. 518, § 1, 70 Stat. 498; July 20, 1961, Pub. L. 87-88, § 1(b), 75 Stat. 204; renumbered Oct. 2, 1965, Pub. L. 89-234, § 2(a), 79 Stat. 903; 1970 Reorg. Plan No. 3, § 2(a)(1), eff. Dec. 2, 1970, 35 F.R. 15623, 84 Stat. 2086, related to interstate cooperation for the prevention and control of water pollution, and was omitted from the Code as superseded by Pub. L. 92-500, § 2, Oct. 18, 1972, 86 Stat. 816. See section 1251 et seq. of this title.

Section 1155, acts June 30, 1948, ch. 758, § 5, formerly § 4, 62 Stat. 1158; July 9, 1956, ch. 518, § 1, 70 Stat. 499; July 20, 1961, Pub. L. 87-88, §§ 1(b), (c), 3, 75 Stat. 204, 205; renumbered Oct. 2, 1965, Pub. L. 89-234, § 2(a), 79 Stat. 903, and amended 1966 Reorg. Plan No. 2, § 1(a), eff. May 10, 1966, 31 F.R. 6857, 80 Stat. 1608; Nov. 3, 1966, Pub. L. 89-753, title II, § 201(b), (c)(1), 80 Stat. 1247; Apr. 3, 1970, Pub. L. 91-224, title I, § 105, 84 Stat. 111; 1970 Reorg. Plan No. 3, § 2(a)(1), eff. Dec. 2, 1970, 35 F.R. 15623, 84 Stat. 2086, related to research, investigations, experiments, demonstrations, and studies in the prevention and control of water pollution and was omitted from the Code as superseded by Pub. L. 92-500, § 2, Oct. 18, 1972, 86 Stat. 816. See section 1251 et seq. of this title.

Section 1156, act June 30, 1948, ch. 758, § 6, as added Oct. 2, 1965, Pub. L. 89-234, § 3, 79 Stat. 905, and amended Nov. 3, 1966, Pub. L. 89-753, title II, § 201(a), 80 Stat. 1246; Apr. 3, 1970, Pub. L. 91-224, title I, § 106, 84 Stat. 113; 1970 Reorg. Plan No. 3, § 2(a)(1), eff. Dec. 2, 1970, 35 F.R. 15623, 84 Stat. 2087, related to grants for research and development of methods to prevent and control water pollution, and was omitted from the Code as superseded by Pub. L. 92-500, § 2, Oct. 18, 1972, 86 Stat. 816. See section 1251 et seq. of this title.

Section 1157, acts June 30, 1948, ch. 758, § 7, formerly § 5, 62 Stat. 1158; July 9, 1956, ch. 518, § 1, 70 Stat. 499; June 25, 1959, Pub. L. 86-70, § 28(a), 73 Stat. 148; July 12, 1960, Pub. L. 86-624, § 23(a), 74 Stat. 417; July 20, 1961, Pub. L. 87-88, §§ 1(b), 4(a), (b), 75 Stat. 204, 205; renumbered and amended Oct. 2, 1965, Pub. L. 89-234, §§ 2(a), 7(a), 79 Stat. 903, 910; Nov. 3, 1966, Pub. L. 89-753, title II, § 202, 80 Stat. 1248; 1970 Reorg. Plan No. 3, § 2(a)(1), eff. Dec. 2, 1970, 35 F.R. 15623, 84 Stat. 2086, related to grants for water pollution control programs, and was omitted from the Code as superseded by Pub. L. 92-500, § 2, Oct. 18, 1972, 86 Stat. 816. See section 1251 et seq. of this title.

Section 1158, acts June 30, 1948, ch. 758, § 8, formerly § 6, 62 Stat. 1158; July 9, 1956, ch. 518, § 1, 70 Stat. 502; July 20, 1961, Pub. L. 87-88, §§ 1(b), 5, 75 Stat. 204, 206, renumbered and amended Oct. 2, 1965, Pub. L. 89-234, §§ 2(a), 4, 7(b), 79 Stat. 903, 906, 910; Nov. 3, 1966, Pub. L. 89-753, title II, §§ 203(a), 204, 205, 80 Stat. 1248-1250; Apr. 3, 1970, Pub. L. 91-224, title I, § 111, 84 Stat. 113; 1970 Reorg. Plan No. 2, §§ 102, 103, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085; 1970 Reorg. Plan No. 3, § 2(a)(1), eff. Dec. 2, 1970, 15 F.R. 15623, 84 Stat. 2087, related to grants for construction of sewerage treatment works and was omitted from the Code as superseded by Pub. L. 92-500, § 2, Oct. 18, 1972, 86 Stat. 816. See section 1251 et seq. of this title.

Section 1159, acts June 30, 1948, ch. 758, § 9, formerly § 7, 62 Stat. 1159; July 17, 1952, ch. 927, 66 Stat. 755; July 9, 1956, ch. 518, § 1, 70 Stat. 503; July 20, 1961, Pub. L. 87-88, §§ 1(b) to (d), 6(a), (b), 75 Stat. 204, 207; renumbered Oct. 2, 1965, Pub. L. 89-234, § 2(a), 79 Stat. 903, and amended 1966 Reorg. Plan No. 2, § 1(a), (c)(1), (2), eff. May 10, 1966, 31 F.R. 6857, 80 Stat. 1608; 1970 Reorg. Plan No. 3, § 2(a)(1), (b)(1)(i), eff. Dec. 3, 1970, 35 F.R. 15623, 84 Stat. 2087, related to the establishment, composition, and duties of the Water Pollution Control Advisory Board, and was omitted from the Code as superseded by Pub. L. 92-500, § 2, Oct. 18, 1972, 86 Stat. 816. See section 1251 et seq. of this title.

Section 1160, acts June 30, 1948, ch. 758, § 10, formerly § 8, 62 Stat. 1159; July 17, 1952, ch. 927, 66 Stat. 755; July 9, 1956, ch. 518, § 1, 70 Stat. 504; July 20, 1961, Pub. L. 87-88, §§ 1(b), 7, 75 Stat. 204, 207; renumbered and amended Oct. 2, 1965, Pub. L. 89-234, §§ 2(a), 5, 7(c), (d), 79 Stat. 903, 907, 910; 1966 Reorg. Plan No. 2, § 1(a), (d)(1), (2), eff. May 10, 1966, 31 F.R. 6857, 80 Stat. 1608; Nov. 3, 1966, Pub. L. 89-753, title II, §§ 206-208, 80 Stat. 1250; Apr. 3, 1970, Pub. L. 91-224, title I, § 112, 84 Stat. 114; 1970 Reorg. Plan No. 3, § 2(a)(1), eff. Dec. 2, 1970, 35 F.R. 15623, 84 Stat. 2087, related to enforcement measures against pollution of interstate or navigable waters and was omitted from the Code as superseded by Pub. L. 92-500, § 2, Oct. 18, 1972, 86 Stat. 816. See section 1251 et seq. of this title.

Section 1161, act June 30, 1948, ch. 758, § 11, as added Apr. 3, 1970, Pub. L. 91-224, title I, § 102, 84 Stat. 91, and amended 1970 Reorg. Plan No. 3, § 2(a)(1), eff. Dec. 2, 1970, 35 F.R. 15623, 84 Stat. 2087, Dec. 31, 1970, Pub. L. 91-611, title I, § 120 84 Stat. 1823, related to control of pollution by oil, and was omitted from the Code as superseded by Pub. L. 92-500, § 2, Oct. 18, 1972, 86 Stat. 816. See section 1251 et seq. of this title.

Section 1162, act June 30, 1948, ch. 758, § 12, as added Apr. 3, 1970, Pub. L. 91-224, title I, § 102, 84 Stat. 98, related to control of pollution by hazardous substances, and was omitted from the Code as superseded by Pub. L. 92-500, § 2, Oct. 18, 1972, 86 Stat. 816. See section 1251 et seq. of this title.

Section 1163, act June 30, 1948, ch. 758, § 13, as added Apr. 3, 1970, Pub. L. 91-224, title I, § 102, 84 Stat. 100, and amended 1970 Reorg. Plan No. 3, § 2(a)(1), eff. Dec. 2, 1970, 35 F.R. 15623, 84 Stat. 2087, related to control of sewage from vessels, and was omitted from the Code as superseded by Pub. L. 92-500, § 2, Oct. 18, 1972, 86 Stat. 816. See section 1251 et seq. of this title.

Section 1164, act June 30, 1948, ch. 758, § 14, as added Apr. 3, 1970, Pub. L. 91-224, title I, § 102, 84 Stat. 103, and amended 1970 Reorg. Plan No. 3, § 2(a)(1), eff. Dec. 2, 1970, 35 F.R. 15623, 84 Stat. 2087, related to acid and other mine water pollution elimination or control projects, and was omitted from the Code as superseded by Pub. L. 92-500, § 2, Oct. 18, 1972, 86 Stat. 816. See section 1251 et seq. of this title.

Section 1165, act June 30, 1948, ch. 758, § 15, as added Apr. 3, 1970, Pub. L. 91-224, title I, § 102, 84 Stat. 104, and amended 1970 Reorg. Plan No. 3, § 2(a)(1), eff. Dec. 2, 1970, 35 F.R. 15623, 84 Stat. 2087, related to Great Lakes pollution elimination or control projects, and was omitted from the Code as superseded by Pub. L. 92-500, § 2, Oct. 18, 1972, 86 Stat. 816. See section 1251 et seq. of this title.

§ 1165a. Transferred

CODIFICATION

Section transferred to section 1293a of this title.

§§ 1166 to 1175. Omitted

CODIFICATION

Section 1166, act June 30, 1948, ch. 758, § 16, as added Apr. 3, 1970, Pub. L. 91-224, title I, § 102, 84 Stat. 104, and amended 1970 Reorg. Plan No. 3, § 2(a)(1), eff. Dec. 2, 1970, 35 F.R. 15623, 84 Stat. 2087, related to training grants to and contracts with institutions of higher education for water quality control programs or projects, and was omitted from the Code as superseded by Pub. L. 92-500, § 2, Oct. 18, 1972, 86 Stat. 816. See section 1251 et seq. of this title.

Section 1167, act June 30, 1948, ch. 758, § 17, as added Apr. 3, 1970, Pub. L. 91-224, title I, § 102, 84 Stat. 105, and amended 1970 Reorg. Plan No. 3, § 2(a)(1), eff. Dec. 3, 1970, 35 F.R. 15623, 84 Stat. 2087, related to applications for training grants or contracts, and was omitted from the Code as superseded by Pub. L. 92-500, § 2, Oct. 18, 1972, 86 Stat. 816. See section 1251 et seq. of this title.

A prior section 17 of act June 30, 1948, formerly classified to section 466m of this title, was repealed by Pub. L. 91-224, title 1, § 102, Apr. 3, 1970, 84 Stat. 91, in the general reorganization of act June 30, 1948 by Pub. L. 91-224.

Section 1168, act June 30, 1948, ch. 758, § 18, as added Apr. 3, 1970, Pub. L. 91-224, title I, § 102, 84 Stat. 105, and amended 1970 Reorg. Plan No. 3, § 2(a)(1), eff. Dec. 2, 1970, 35 F.R. 15623, 84 Stat. 2087, related to the awarding of scholarships for undergraduate study of operation and maintenance of treatment works, and was omitted from the Code as superseded by Pub. L. 92-500, § 2, Oct. 18, 1972, 86 Stat. 816. See section 1251 et seq. of this title.

A prior section 18 of act June 30, 1948, formerly classified to section 466n of this title, was repealed by Pub. L. 91-224, title I, § 102, Apr. 3, 1970, 84 Stat. 91, in the general reorganization of act June 30, 1948 by Pub. L. 91-224.

Section 1169, act June 30, 1948, ch. 758, § 19, as added Apr. 3, 1970, Pub. L. 91-224, title I, § 102, 84 Stat. 106, and amended 1970 Reorg. Plan No. 3, § 2(a)(1), eff. Dec. 2, 1970, 35 F.R. 15623, 84 Stat. 2087, related to an annual report by the Administrator of the Environmental Protection Agency, appropriations for certain fiscal years, and defined certain terms as used in this chapter, and was omitted from the Code as superseded by Pub. L. 92-500, § 2, Oct. 18, 1972, 86 Stat. 816. See section 1251 et seq. of this title.

Section 1170, act June 30, 1948, ch. 758, § 20, as added Apr. 3, 1970, Pub. L. 91-224, title I, § 102, 84 Stat. 107, and amended 1970 Reorg. Plan No. 3, § 2(a)(1), eff. Dec. 2, 1970, 35 F.R. 15623, 84 Stat. 2087, related to Alaska village safe water and pollution elimination or control projects, and was omitted from the Code as superseded by Pub. L. 92-500, § 2, Oct. 18, 1972, 86 Stat. 816. See section 1251 et seq. of this title.

Section 1171, act June 30, 1948, ch. 758, § 21, formerly § 9, 62 Stat. 1160; July 9, 1956, ch. 518, § 1, 70 Stat. 506; July 20, 1961, Pub. L. 87-88, § 8, 75 Stat. 210; renumbered § 11, and amended Oct. 2, 1965, Pub. L. 89-234, §§ 2(a), 7(e), 79 Stat. 903, 910; 1966 Reorg. Plan No. 2, § 1(a), eff. May 10, 1966, 31 F.R. 6857, 80 Stat. 1608; renumbered § 21, and amended Apr. 3, 1970, Pub. L. 91-224, title I, §§ 102, 103, 84 Stat. 91, 107; 1970 Reorg. Plan No. 3, § 2(a)(1), eff. Dec. 2, 1970, 35 F.R. 15623, 84 Stat. 2087, related to cooperation by all Federal agencies in pollution control, and was omitted from the Code as superseded by Pub. L. 92-500, § 2, Oct. 18, 1972, 86 Stat. 816. See section 1251 et seq. of this title.

Section 1172, act June 30, 1948, ch. 758, § 22, formerly § 10, 62 Stat. 1160; July 9, 1956, ch. 518, § 1 70 Stat. 506; July 20, 1961, Pub. L. 87-88, § 1(b), (d), (e), 75 Stat. 204; renumbered § 12, and amended Oct. 2, 1965, Pub. L. 89-234, §§ 2(a), 6, 79 Stat. 903, 909; 1966 Reorg. Plan No. 2, § 1(a), eff. May 10, 1966, 31 F.R. 6857, 80 Stat. 1608; renumbered § 22 and amended Apr. 3, 1970, Pub. L. 91-224, title I, §§ 102, 104, 84 Stat. 91, 110; 1970 Reorg. Plan No. 3, § 2(a)(1), eff. Dec. 2, 1970, 35 F.R. 15623, 84 Stat. 2087, related to the administration of the water pollution control program under this chapter and was omitted as superseded by Pub. L. 92-500, § 2, Oct. 18, 1972, 86 Stat. 816. See section 1251 et seq. of this title.

Section 1173, act June 30, 1948, ch. 758, § 23, formerly § 11, 62 Stat. 1161; July 9, 1956, ch. 518, § 1, 70 Stat. 506; June 25, 1959, Pub. L. 86-70, § 28(b), 73 Stat. 148; July 12, 1960, Pub. L. 86-624, § 23(b), 74 Stat. 418; July 20, 1961, Pub. L. 87-88, § 9, 75 Stat. 210; renumbered § 13, Oct. 2, 1965, Pub. L. 89-234, § 2(a), 79 Stat. 903, and amended Nov. 3, 1966, Pub. L. 89-753, title II, § 209, 80 Stat. 1251; renumbered § 23, Apr. 3, 1970, Pub. L. 91-224, title I, § 102, 84 Stat. 91, related to definitions of terms used in this chapter, and was omitted from the Code as superseded by Pub. L. 92-500, § 2, Oct. 18, 1972, 86 Stat. 816. See section 1251 et seq. of this title.

Section 1174, act June 30, 1948, ch. 758, § 24, formerly § 12, as added July 9, 1956, ch. 518, § 1, 70 Stat. 506, renumbered § 14, Oct. 2, 1965, Pub. L. 89-234, § 2(a), 79 Stat. 903, renumbered § 24, and amended Apr. 3, 1970, Pub. L. 91-224, §§ 102, 107, 84 Stat. 91, 113, related to the application of this chapter to other laws, and was omitted from the Code as superseded by Pub. L. 92-500, § 2, Oct. 18, 1972, 86 Stat. 816. See section 1251 et seq. of this title.

Section 1175, act June 30, 1948, ch. 758, § 26, formerly § 16, as added Nov. 3, 1966, Pub. L. 89-753, title II, § 210, 80 Stat. 1252, renumbered Apr. 3, 1970, Pub. L. 91-224, title I, § 102, 84 Stat. 91, and amended 1970 Reorg. Plan No. 3, § 2(a)(1), eff. Dec. 2, 1970, 35 F.R. 15623, 84 Stat. 2087, related to cost estimates, studies, and analysis by the Administrator of the Environmental Protection Agency, and was omitted from the Code as superseded by Pub. L. 92-500, § 2, Oct. 18, 1972, 86 Stat. 816. See section 1251 et seq. of this title.

CHAPTER 24—VESSEL BRIDGE-TO-BRIDGE COMMUNICATIONS

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1202. Definitions.
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(a) Vessel coverage; exchange of navigational information.
(b) Vessels upon navigable waters of United States inside high seas lines.
1204. Radiotelephone for exclusive use of master, person in charge, or pilot; frequency listening watch; portable radiotelephone equipment.
1205. Radiotelephone capability; maintenance; restoration; consequences of loss; navigation of vessel.
1206. Exemptions; terms and conditions.

Sec.
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(a) Operating and technical conditions and characteristics; frequencies, emission, and power of radiotelephone equipment.
(b) Enforcement.
1208. Penalties.
(a) Master, person in charge, or pilot subject to penalty.
(b) Vessel subject to penalty; jurisdiction.
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§ 1201. Statement of purpose

It is the purpose of this chapter to provide a positive means whereby the operators of approaching vessels can communicate their intentions to one another through voice radio, located convenient to the operator's navigation station. To effectively accomplish this, there is need for a specific frequency or frequencies dedicated to the exchange of navigational information, on navigable waters of the United States.

(Pub. L. 92-63, § 2, Aug. 4, 1971, 85 Stat. 164.)

Short Title

Section 1 of Pub. L. 92-63 provided: "That this Act [enacting this chapter] may be cited as the 'Vessel Bridge-to-Bridge Radiotelephone Act'."

Effective Date

Section 10 of Pub. L. 92-63 provided that: "This Act [this chapter] shall become effective May 1, 1971, or six months after the promulgation of regulations which would implement its provisions, whichever is later." See 47 CFR 83.701 et seq.

§ 1202. Definitions

For the purpose of this chapter—

(1) "Secretary" means the Secretary of the Department in which the Coast Guard is operating;

(2) "power-driven vessel" means any vessel propelled by machinery; and

(3) "towing vessel" means any commercial vessel engaged in towing another vessel astern, alongside, or by pushing ahead.

(Pub. L. 92-63, § 3, Aug. 4, 1971, 85 Stat. 164.)

§ 1203. Radiotelephone requirement

(a) Vessel coverage; exchange of navigational information

Except as provided in section 1206 of this title—

(1) every power-driven vessel of three hundred gross tons and upward while navigating;

(2) every vessel of one hundred gross tons and upward carrying one or more passengers for hire while navigating;

(3) every towing vessel of twenty-six feet or over in length while navigating; and

(4) every dredge and floating plant engaged in or near a channel or fairway in operations likely to restrict or affect navigation of other vessels—

shall have a radiotelephone capable of operation from its navigational bridge or, in the case of a dredge, from its main control station and capable of transmitting and receiving on the frequency or frequencies within the 156-162 Mega-Hertz band using the classes of emissions designated by the Federal Communications Commission, after consultation with other cognizant agencies, for the exchange of navigational information.

(b) Vessels upon navigable waters of United States inside high seas lines

The radiotelephone required by subsection (a) of this section shall be carried on board the described vessels, dredges, and floating plants upon the navigable waters of the United States inside the lines established pursuant to section 151 of this title.

(Pub. L. 92-63, § 4, Aug. 4, 1971, 85 Stat. 164.)

§ 1204. Radiotelephone for exclusive use of master, person in charge, or pilot; frequency listening watch; portable radiotelephone equipment

The radiotelephone required by this chapter is for the exclusive use of the master or person in charge of the vessel, or the person designated by the master or person in charge to pilot or direct the movement of the vessel, who shall maintain a listening watch on the designated frequency. Nothing contained herein shall be interpreted as precluding the use of portable radiotelephone equipment to satisfy the requirements of this chapter.

(Pub. L. 92-63, § 5, Aug. 4, 1971, 85 Stat. 165.)

§ 1205. Radiotelephone capability; maintenance; restoration; consequences of loss: navigation of vessel

Whenever radiotelephone capability is required by this chapter, a vessel's radiotelephone equipment shall be maintained in effective operating condition. If the radiotelephone equipment carried aboard a vessel ceases to operate, the master shall exercise due diligence to restore it or cause it to be restored to effective operating condition at the earliest practicable time. The failure of a vessel's radiotelephone equipment shall not, in itself, constitute a violation of this chapter, nor shall it obligate the master of any vessel to moor or anchor his vessel; however, the loss of radiotelephone capability shall be given consideration in the navigation of the vessel.

(Pub. L. 92-63, § 6, Aug. 4, 1971, 85 Stat. 165.)

§ 1206. Exemptions; terms and conditions

The Secretary may, if he considers that marine navigational safety will not be adversely affected or where a local communication system fully complies with the intent of this concept but does not conform in detail, issue exemptions from any provisions of this chapter, on such terms and conditions as he considers appropriate.

(Pub. L. 92-63, § 7, Aug. 4, 1971, 85 Stat. 165.)

Section Referred to in Other Sections

This section is referred to in section 1203 of this title.

§ 1207. Regulations

(a) Operating and technical conditions and characteristics; frequencies, emission, and power of radiotelephone equipment

The Federal Communications Commission shall, after consultation with other cognizant agencies, prescribe regulations necessary to

specify operating and technical conditions and characteristics including frequencies, emission, and power of radiotelephone equipment required under this chapter.

(b) Enforcement

The Secretary shall, subject to the concurrence of the Federal Communications Commission, prescribe regulations for the enforcement of this chapter.

(Pub. L. 92-63, § 8, Aug. 4, 1971, 85 Stat. 165.)

§ 1208. Penalties

(a) Master, person in charge, or pilot subject to penalty

Whoever, being the master or person in charge of a vessel subject to this chapter, fails to enforce or comply with this chapter or the regulation, hereunder; or

Whoever, being designated by the master or person in charge of a vessel subject to this chapter to pilot or direct the movement of the vessel, fails to enforce or comply with this chapter or the regulations hereunder—

Is liable to a civil penalty of not more than $500 to be assessed by the Secretary.

(b) Vessels subject to penalty; jurisdiction

Every vessel navigating in violation of this chapter or the regulations hereunder is liable to a civil penalty of not more than $500 to be assessed by the Secretary for which the vessel may be proceeded against in any district court of the United States having jurisdiction.

(c) Remission or mitigation

Any penalty assessed under this section may be remitted or mitigated by the Secretary upon such terms as he may deem proper.

(Pub. L. 92-63, § 9, Aug. 4, 1971, 85 Stat. 165.)

CHAPTER 25—PORTS AND WATERWAYS SAFETY PROGRAM

Sec.

1221. Prevention of damage to vessels, bridges, and other structures; protection of navigable waters from environmental harm; authority of Secretary.
1222. General provisions.
(a) Definition.
(b) Authority under other provisions and better safety requirements prescribed by other agencies unaffected.
(c) Consultation with appropriate agencies.
(d) Provisions of chapter inapplicable to Panama Canal; delegation of powers with respect to Saint Lawrence Seaway.
(e) Factors considered in the issuance of regulations.
1223. Investigatory powers of Secretary; production of witnesses and documents; proceedings for compliance with subpenas; fees and allowances of witnesses.
1224. Rules and regulations.
1225. Omitted.
1226. Civil penalties; proceedings for collection.
1227. Criminal penalties.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is refered to in title 49 section 1806.

§ 1221. Prevention of damage to vessels, bridges, and other structures; protection of navigable waters from environmental harm; authority of Secretary

In order to prevent damage to, or the destruction or loss of any vessel, bridge, or other structure on or in the navigable waters of the United States, or any land structure or shore area immediately adjacent to those waters; and to protect the navigable waters and the resources therein from environmental harm resulting from vessel or structure damage, destruction, or loss, the Secretary of the department in which the Coast Guard is operating may—

(1) establish, operate, and maintain vessel traffic services and systems for ports, harbors, and other waters subject to congested vessel traffic;

(2) require vessels which operate in an area of a vessel traffic service or system to utilize or comply with that service or system, including the carrying or installation of electronic or other devices necessary for the use of the service or system;

(3) control vessel traffic in areas which he determines to be especially hazardous, or under conditions of reduced visibility, adverse weather, vessel congestion, or other hazardous circumstances by—

(i) specifying times of entry, movement, or departure to, from, within, or through ports, harbors, or other waters;

(ii) establishing vessel traffic routing schemes;

(iii) establishing vessel size and speed limitations and vessel operating conditions; and

(iv) restricting vessel operation, in a hazardous area or under hazardous conditions, to vessels which have particular operating characteristics and capabilities which he considers necessary for safe operation under the circumstances;

(4) direct the anchoring, mooring, or movement of a vessel when necessary to prevent damage to or by that vessel or her cargo, stores, supplies, or fuel;

(5) require pilots on self-propelled vessels engaged in the foreign trades in areas and under circumstances where a pilot is not otherwise required by State law to be on board until the State having jurisdiction of an area involved establishes a requirement for a pilot in that area or under the circumstances involved;

(6) establish procedures, measures, and standards for the handling, loading, discharge, storage, stowage, and movement, including the emergency removal, control and disposition, of explosives or other dangerous articles or substances (including the substances described in section 391a(2)(A), (B), and (C) of title 46 on structures subject to this chapter;

(7) prescribe minimum safety equipment requirements for structures subject to this chapter to assure adequate protection from fire, explosion, natural disasters, and other serious accidents or casualties;

(8) establish water or waterfront safety zones or other measures for limited, controlled, or conditional access and activity when necessary for the protection of any vessel, structure, waters, or shore area; and

(9) establish procedures for examination to assure compliance with the minimum safety equipment requirements for structures.

(Pub. L. 92-340, title I, § 101, July 10, 1972, 86 Stat. 424.)

SHORT TITLE

Section 1 of Pub. L. 92-340 provided that: "This Act [enacting this chapter and amending section 391a of Title 46, Shipping, and enacting provisions set out as notes under section 391a of Title 46] may be cited as the 'Ports and Waterways Safety Act of 1972'."

ESTABLISHMENT OF VESSEL TRAFFIC CONTROL SYSTEM FOR PRINCE WILLIAM SOUND AND VALDEZ, ALASKA

Pub. L. 93-153, title IV, § 402, Nov. 16, 1973, 87 Stat. 589, provided that: "The Secretary of the Department in which the Coast Guard is operating is hereby directed to establish a vessel traffic control system for Prince William Sound and Valdez, Alaska, pursuant to authority contained in title I of the Ports and Waterways Safety Act of 1972 (86 Stat. 424, Public Law 92-340) [this chapter]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1222 of this title.

§ 1222. General provisions

(a) Definition

For the purpose of this Act, the term "United States" includes the fifty States, the District of Columbia, Puerto Rico, the territories and possessions of the United States, and the Trust Territory of the Pacific Islands.

(b) Authority under other provisions and better safety requirements prescribed by other agencies unaffected

Nothing contained in this chapter supplants or modifies any treaty or Federal statute or authority granted thereunder, nor does it prevent a State or political subdivision thereof from prescribing for structures only higher safety equipment requirements or safety standards than those which may be prescribed pursuant to this chapter.

(c) Consultation with appropriate agencies

In the exercise of his authority under this chapter, the Secretary shall consult with other Federal agencies, as appropriate, in order to give due consideration to their statutory and other responsibilities, and to assure consistency of regulations applicable to vessels, structures, and areas covered by this chapter. The Secretary may also consider, utilize, and incorporate regulations or similar directory materials issued by port or other State and local authorities.

(d) Provisions of chapter inapplicable to Panama Canal; delegation of powers with respect to Saint Lawrence Seaway

This chapter shall not be applicable to the Panama Canal. The authority granted to the Secretary under section 1221 of this title shall not be delegated with respect to the Saint Lawrence Seaway to any agency other than the Saint Lawrence Seaway Development Corporation. Any other authority granted the Secretary under this chapter shall be delegated to the Saint Lawrence Seaway Development Corporation to the extent that the Secretary determines such delegation is necessary for the proper operation of the Seaway.

(e) Factors considered in the issuance of regulations

In carrying out his duties and responsibilities under this chapter to promote the safe and efficient conduct of maritime commerce the Secretary shall consider fully the wide variety of interests which may be affected by the exercise of his authority hereunder. In determining the need for, and the substance of, any rule or regulation or the exercise of other authority hereunder the Secretary shall, among other things, consider—

(1) the scope and degree of the hazards;

(2) vessel traffic characteristics including minimum interference with the flow of commercial traffic, traffic volume, the sizes and types of vessels, the usual nature of local cargoes, and similar factors;

(3) port and waterway configurations and the differences in geographic, climatic, and other conditions and circumstances;

(4) environmental factors;

(5) economic impact and effects;

(6) existing vessel traffic control systems, services, and schemes; and

(7) local practices and customs, including voluntary arrangements and agreements within the maritime community.

(Pub. L. 92-340, title I, § 102, July 10, 1972, 86 Stat. 425.)

REFERENCES IN TEXT

This Act, referred to in subsec. (a), is Pub. L. 92-340, July 10, 1972, 86 Stat. 424, which enacted this chapter, amended section 391a of Title 46, Shipping, and enacted provisions set out as notes under section 391a of Title 46. For complete classification of this Act to the Code, see Short Title note set out under section 1221 of this title and Tables volume.

§ 1223. Investigatory powers of Secretary; production of witnesses and documents; proceedings for compliance with subpenas; fees and allowances of witnesses

The Secretary may investigate any incident, accident, or act involving the loss or destruction of, or damage to, any structure subject to this chapter, or which affects or may affect the safety or environmental quality of the ports, harbors, or navigable waters of the United States. In any investigation under this chapter, the Secretary may issue a subpena to require the attendance of any witness and the production of documents and other evidence. In case of refusal to obey a subpena issued to any person, the Secretary may request the Attorney General to invoke the aid of the appropriate district court of the United States to compel compliance. Witnesses may be paid fees for travel and attendance at rates not exceeding those allowed in a district court of the United States.

(Pub. L. 92-340, title I, § 103, July 10, 1972, 86 Stat. 426.)

§ 1224. Rules and regulations

The Secretary may issue reasonable rules, regulations, and standards necessary to implement this chapter. In the exercise of his rulemaking authority the Secretary is subject to the provisions of chapters 5 and 7 of title 5. In preparing proposed rules, regulations, and standards, the Secretary shall provide an ade-

quate opportunity for consultation and comment to State and local governments, representatives of the marine industry, port and harbor authorities, environmental groups, and other interested parties.

(Pub. L. 92-340, title I, § 104, July 10, 1972, 86 Stat. 427.)

§ 1225. Omitted

Section, Pub. L. 92-340, title I, § 105, July 10, 1972, 86 Stat. 427, which authorized the Secretary, within one year from July 10, 1972, to report to Congress his recommendations for legislation necessary to achieve coordination between the functions authorized by Pub. L. 92-340 and the functions of any other agencies and to eliminate duplication of these functions, was omitted from the Code as executed.

§ 1226. Civil penalties; proceedings for collection

Whoever violates a regulation issued under this chapter shall be liable to a civil penalty of not more than $10,000. The Secretary may assess and collect any civil penalty incurred under this chapter and, in his discretion, remit, mitigate, or compromise any penalty. Upon failure to collect or compromise a penalty, the Secretary may request the Attorney General to commence an action for collection in any district court of the United States. A vessel used or employed in a violation of a regulation under this chapter shall be liable in rem and may be proceeded against in any district court of the United States having jurisdiction.

(Pub. L. 92-340, title I, § 106, July 10, 1972, 86 Stat. 427.)

§ 1227. Criminal penalties

Whoever willfully violates a regulation issued under this chapter shall be fined not less than $5,000 or more than $50,000 or imprisoned for not more than five years, or both.

(Pub. L. 92-340, title I, § 107, July 10, 1972, 86 Stat. 427.)

CHAPTER 26—WATER POLLUTION PREVENTION AND CONTROL

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This chapter is referred to in sections 1293a, 1402, 1502, 1503 of this title; title 15 section 636; title 16 section 1456; title 26 sections 48, 169; title 30 section 201; title 40 App., sections 212, 214; title 42 sections 3102, 3188a, 4905, 6901, 6905, 6907, 6949; title 43 sections 421h, 1577, 1595, 1597; title 49 section 1604.

SUBCHAPTER I—RESEARCH AND RELATED PROGRAMS

§ 1251. Congressional declaration of goals and policy

(a) The objective of this chapter is to restore and maintain the chemical, physical, and biological integrity of the Nation's waters. In order to achieve this objective it is hereby declared that, consistent with the provisions of this chapter—

(1) it is the national goal that the discharge of pollutants into the navigable waters be eliminated by 1985;

(2) it is the national goal that wherever attainable, an interim goal of water quality which provides for the protection and propagation of fish, shellfish, and wildlife and pro-

vides for recreation in and on the water be achieved by July 1, 1983;

(3) it is the national policy that the discharge of toxic pollutants in toxic amounts be prohibited;

(4) it is the national policy that Federal financial assistance be provided to construct publicly owned waste treatment works;

(5) it is the national policy that areawide waste treatment management planning processes be developed and implemented to assure adequate control of sources of pollutants in each State; and

(6) it is the national policy that a major research and demonstration effort be made to develop technology necessary to eliminate the discharge of pollutants into the navigable waters, waters of the contiguous zone, and the oceans.

(b) It is the policy of the Congress to recognize, preserve, and protect the primary responsibilities and rights of States to prevent, reduce, and eliminate pollution, to plan the development and use (including restoration, preservation, and enhancement) of land and water resources, and to consult with the Administrator in the exercise of his authority under this chapter. It is further the policy of the Congress to support and aid research relating to the prevention, reduction, and elimination of pollution and to provide Federal technical services and financial aid to State and interstate agencies and municipalities in connection with the prevention, reduction, and elimination of pollution.

(c) It is further the policy of Congress that the President, acting through the Secretary of State and such national and international organizations as he determines appropriate, shall take such action as may be necessary to insure that to the fullest extent possible all foreign countries shall take meaningful action for the prevention, reduction, and elimination of pollution in their waters and in international waters and for the achievement of goals regarding the elimination of discharge of pollutants and the improvement of water quality to at least the same extent as the United States does under its laws.

(d) Except as otherwise expressly provided in this chapter, the Administrator of the Environmental Protection Agency (hereinafter in this chapter called "Administrator") shall administer this chapter.

(e) Public participation in the development, revision, and enforcement of any regulation, standard, effluent limitation, plan, or program established by the Administrator or any State under this chapter shall be provided for, encouraged, and assisted by the Administrator and the States. The Administrator, in cooperation with the States, shall develop and publish regulations specifying minimum guidelines for public participation in such processes.

(f) It is the national policy that to the maximum extent possible the procedures utilized for implementing this chapter shall encourage the drastic minimization of paperwork and interagency decision procedures, and the best use of available manpower and funds, so as to prevent needless duplication and unnecessary delays at all levels of government.

(June 30, 1948, ch. 758, title I, § 101, as added Oct. 18, 1972, Pub. L. 92-500, § 2, 86 Stat. 816.)

CODIFICATION

The Federal Water Pollution Control Act, comprising this chapter, was originally enacted by act June 30, 1948, ch. 758, 62 Stat. 1155, and amended by acts July 17, 1952, ch. 927, 66 Stat. 755; July 9, 1956, ch. 518, 70 Stat. 498; June 25, 1959, Pub. L. 86-70, 73 Stat. 141; July 12, 1960, Pub. L. 86-624, 74 Stat. 411; July 20, 1961, Pub. L. 87-88, 75 Stat. 204; Oct. 2, 1965, Pub. L. 89-234, 79 Stat. 903; Nov. 3, 1966, Pub. L. 89-753, 80 Stat. 1246; Apr. 3, 1970, Pub. L. 91-224, 84 Stat. 91; Dec. 31, 1970, Pub. L. 91-611, 84 Stat. 1818; July 9, 1971, Pub. L. 92-50, 85 Stat. 124; Oct. 13, 1971, Pub. L. 92-137, 85 Stat. 379; Mar. 1, 1972, Pub. L. 92-240, 86 Stat. 47, and was formerly classified first to section 466 et seq. of this title and later to section 1151 et seq. of this title. The act is shown herein, however, as having been added by Pub. L. 92-500 without reference to such intervening amendments because of the extensive amendment, reorganization, and expansion of the act's provisions by Pub. L. 92-500.

SHORT TITLE

Section 1 of Pub. L. 92-500 provided that: "That this Act [which enacted this chaper, amended section 24 of Title 12, Banks and Banking, sections 633 and 636 of Title 15, Commerce and Trade, and section 711 of Title 31, Money and Finance, and enacted provisions set out as notes under this section and sections 1281 and 1361 of this title] may be cited as the 'Federal Water Pollution Control Act Amendments of 1972'."

Section 518 of act June 30, 1948, ch. 758, as added Oct. 18, 1972, Pub. L. 92-500, § 2, 86 Stat. 896, provided that: "This Act [this chapter] may be cited as the 'Federal Water Pollution Control Act'."

SEPARABILITY OF PROVISIONS

Section 512 of act June 30, 1948, ch. 758, title V, as added Oct. 18, 1972, Pub. L. 92-500, § 2, 86 Stat. 894, provided that: "If any provision of this Act [this chapter], or the application of any provision of this Act [this chapter] to any person or circumstance, is held invalid, the application of such provision to other persons or circumstances, and the remainder of this Act [this chapter], shall not be affected thereby."

SAVINGS PROVISIONS

Section 4 of Pub. L. 92-500 provided that:

"(a) No suit, action, or other proceeding lawfully commenced by or against the Administrator or any other officer or employee of the United States in his official capacity or in relation to the discharge of his official duties under the Federal Water Pollution Control Act as in effect immediately prior to the date of enactment of this Act [Oct. 18, 1972] shall abate by reason of the taking effect of the amendment made by section 2 of this Act [which enacted this chapter]. The court may, on its own motion or that of any party made at any time within twelve months after such taking effect, allow the same to be maintained by or against the Administrator or such officer or employee.

"(b) All rules, regulations, orders, determinations, contracts, certifications, authorizations, delegations, or other actions duly issued, made, or taken by or pursuant to the Federal Water Pollution Control Act as in effect immediately prior to the date of enactment of this Act [Oct. 18, 1972], and pertaining to any functions, powers, requirements, and duties under the Federal Water Pollution Control Act as in effect immediately prior to the date of enactment of this Act [Oct. 18, 1972] shall continue in full force and effect after the date of enactment of this Act [Oct. 18, 1972] until modified or rescinded in accordance with the Federal Water Pollution Control Act as amended by this Act [this chapter].

"(c) The Federal Water Pollution Control Act as in effect immediately prior to the date of enactment of this Act [Oct. 18, 1972] shall remain applicable to all grants made from funds authorized for the fiscal year

ending June 30, 1972, and prior fiscal years, including any increases in the monetary amount of any such grant which may be paid from authorizations for fiscal years beginning after June 30, 1972, except as specifically otherwise provided in section 202 of the Federal Water Pollution Control Act as amended by this Act [section 1282 of this title] and in subsection (c) of section 3 of this Act."

OVERSIGHT STUDY

Section 5 of Pub. L. 92-500 authorized the Comptroller General of the United States to conduct a study and review of the research, pilot, and demonstration programs related to prevention and control of water pollution conducted, supported, or assisted by any Federal agency pursuant to any federal law or regulation and assess conflicts between these programs and their coordination and efficacy, and to report to Congress thereon by Oct. 1, 1973.

INTERNATIONAL TRADE STUDY

Section 6 of Pub. L. 92-500 provided that:

"(a) The Secretary of Commerce, in cooperation with other interested Federal agencies and with representatives of industry and the public, shall undertake immediately an investigation and study to determine—

"(1) the extent to which pollution abatement and control programs will be imposed on, or voluntarily undertaken by, United States manufacturers in the near future and the probable short- and long-range effects of the costs of such programs (computed to the greatest extent practicable on an industry-by-industry basis) on (A) the production costs of such domestic manufacturers, and (B) the market prices of the goods produced by them;

"(2) the probable extent to which pollution abatement and control programs will be implemented in foreign industrial nations in the near future and the extent to which the production costs (computed to the greatest extent practicable on an industry-by-industry basis) of foreign manufacturers will be affected by the costs of such programs;

"(3) the probable competitive advantage which any article manufactured in a foreign nation will likely have in relation to a comparable article made in the United States if that foreign nation—

"(A) does not require its manufacturers to implement pollution abatement and control programs.

"(B) requires a lesser degree of pollution abatement and control in its programs, or

"(C) in any way reimburses or otherwise subsidizes its manufacturers for the costs of such program;

"(4) alternative means by which any competitive advantage accruing to the products of any foreign nation as a result of any factor described in paragraph (3) may be (A) accurately and quickly determined, and (B) equalized, for example, by the imposition of a surcharge or duty, on a foreign product in an amount necessary to compensate for such advantage; and

"(5) the impact, if any, which the imposition of a compensating tariff of other equalizing measure may have in encouraging foreign nations to implement pollution and abatement control programs.

"(b) The Secretary shall make an initial report to the President and Congress within six months after the date of enactment of this section [Oct. 18, 1972] of the results of the study and investigation carried out pursuant to this section and shall make additional reports thereafter at such times as he deems appropraite taking into account the development of relevant data, but not less than once every twelve months."

INTERNATIONAL AGREEMENTS

Section 7 of Pub. L. 92-500 provided that: "The President shall undertake to enter into international agreement to apply uniform standards of performance for the control of the discharge and emission of pollutants from new sources, uniform controls over the discharge and emission of toxic pollutants, and uniform controls over the discharge of pollutants into the ocean. For this purpose the President shall negotiate multilaterial treaties, conventions, resolutions, or other agreements, and formulate, present, or support proposals at the United Nations and other appropriate international forums."

NATIONAL POLICIES AND GOAL STUDY

Section 10 of Pub. L. 92-500 authorized the President to make a full and complete investigation and study of all national policies and goals established by law to determine what the relationship should be between these policies and goals, taking into account the resources of the Nation, and to report the results of his investigation and study together with his recommendations to Congress not later than two years after Oct. 18, 1972.

EFFICIENCY STUDY

Section 11 of Pub. L. 92-500 authorized the President, by utilization of the General Accounting Office, to conduct a full and complete investigation and study of ways and means of most effectively using all of the various resources, facilities, and personnel of the Federal Government in order to most efficiently carry out the provisions of this chapter and to report the results of his investigation and study together with his recommendations to Congress not later than two hundred and seventy days after Oct. 18, 1972.

SEX DISCRIMINATION

Section 13 of Pub. L. 92-500 provided that: "No person in the United States shall on the ground of sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal assistance under this Act [see Short Title note above] the Federal Water Pollution Control Act [this chapter], or the Environmental Financing Act [set out as a note under section 1281 of this title]. This section shall be enforced through agency provisions and rules similar to those already established, with respect to racial and other discrimination, under title VI of the Civil Rights Act of 1964 [section 2000d et seq. of Title 42, The Public Health and Welfare]. However, this remedy is not exclusive and will not prejudice or cut off any other legal remedies available to a discriminatee."

PREVENTION, CONTROL AND ABATEMENT OF ENVIRONMENTAL POLLUTION AT FEDERAL FACILITIES

Ex. Ord. No. 11752, Dec. 17, 1973, 38 F.R. 34793, set out as a note under section 4331 of Title 42, The Public Health and Welfare, provides for the prevention, control, and abatement of environmental pollution at federal facilities.

EXECUTIVE ORDER NO. 11548

Ex. Ord. No. 11548, July 20, 1970, 35 F.R. 11677, formerly set out under section 1151 of this title, which related to the delegation of Presidential functions, was superseded by Ex. Ord. No. 11735, Aug. 3, 1973, 38 F.R. 21243, set out as a note under section 1321 of this title.

EX. ORD. NO. 11742. DELEGATION OF FUNCTIONS TO SECRETARY OF STATE RESPECTING THE NEGOTIATION OF INTERNATIONAL AGREEMENTS RELATING TO THE ENHANCEMENT OF THE ENVIRONMENT

Ex. Ord. No. 11742, Oct. 23, 1973, 38 F.R. 29457, provided:

Under and by virtue of the authority vested in me by section 301 of title 3 of the United States Code and as President of the United States, I hereby authorize and empower the Secretary of State, in coordination with the Council on Environmental Quality, the Environmental Protection Agency, and other appropriate Federal agencies, to perform, without the approval, ratification, or other action of the President, the functions vested in the President by Section 7 of the Federal Water Pollution Control Act Amendments of 1972 (Public Law 92-500; 86 Stat. 898) with respect to inter-

national agreements relating to the enhancement of the environment.

RICHARD NIXON.

§ 1252. Comprehensive programs for water pollution control

(a) Preparation and development

The Administrator shall, after careful investigation, and in cooperation with other Federal agencies, State water pollution control agencies, interstate agencies, and the municipalities and industries involved, prepare or develop comprehensive programs for preventing, reducing, or eliminating the pollution of the navigable waters and ground waters and improving the sanitary condition of surface and underground waters. In the development of such comprehensive programs due regard shall be given to the improvements which are necessary to conserve such waters for the protection and propagation of fish and aquatic life and wildlife, recreational purposes, and the withdrawal of such waters for public water supply, agricultural, industrial, and other purposes. For the purpose of this section, the Administrator is authorized to make joint investigations with any such agencies of the condition of any waters in any State or States, and of the discharges of any sewage, industrial wastes, or substance which may adversely affect such waters.

(b) Planning for reservoirs; storage for regulation of streamflow

(1) In the survey or planning of any reservoir by the Corps of Engineers, Bureau of Reclamation, or other Federal agency, consideration shall be given to inclusion of storage for regulation of streamflow, except that any such storage and water releases shall not be provided as a substitute for adequate treatment or other methods of controlling waste at the source.

(2) The need for and the value of storage for regulation of streamflow (other than for water quality) including but not limited to navigation, salt water intrusion, recreation, esthetics, and fish and wildlife, shall be determined by the Corps of Engineers, Bureau of Reclamation, or other Federal agencies.

(3) The need for, the value of, and the impact of, storage for water quality control shall be determined by the Administrator, and his views on these matters shall be set forth in any report or presentation to Congress proposing authorization or construction of any reservoir including such storage.

(4) The value of such storage shall be taken into account in determining the economic value of the entire project of which it is a part, and costs shall be allocated to the purpose of regulation of streamflow in a manner which will insure that all project purposes, share equitably in the benefit of multiple-purpose construction.

(5) Costs of regulation of streamflow features incorporated in any Federal reservoir or other impoundment under the provisions of this chapter shall be determined and the beneficiaries identified and if the benefits are widespread or national in scope, the costs of such features shall be nonreimbursable.

(6) No license granted by the Federal Power Commission for a hydroelectric power project shall include storage for regulation of streamflow for the purpose of water quality control unless the Administrator shall recommend its inclusion and such reservoir storage capacity shall not exceed such proportion of the total storage required for the water quality control plan as the drainage area of such reservoir bears to the drainage area of the river basin or basins involved in such water quality control plan.

(c) Basins; grants to State agencies

(1) The Administrator shall, at the request of the Governor of a State, or a majority of the Governors when more than one State is involved, make a grant to pay not to exceed 50 per centum of the administrative expenses of a planning agency for a period not to exceed three years, which period shall begin after October 18, 1972, if such agency provides for adequate representation of appropriate State, interstate, local, or (when appropriate) international interests in the basin or portion thereof involved and is capable of developing an effective, comprehensive water quality control plan for a basin or portion thereof.

(2) Each planning agency receiving a grant under this subsection shall develop a comprehensive pollution control plan for the basin or portion thereof which—

(A) is consistent with any applicable water quality standards effluent and other limitations, and thermal discharge regulations established pursuant to current law within the basin;

(B) recommends such treatment works as will provide the most effective and economical means of collection, storage, treatment, and elimination of pollutants and recommends means to encourage both municipal and industrial use of such works;

(C) recommends maintenance and improvement of water quality within the basin or portion thereof and recommends methods of adequately financing those facilities as may be necessary to implement the plan; and

(D) as appropriate, is developed in cooperation with, and is consistent with any comprehensive plan prepared by the Water Resources Council, any areawide waste management plans developed pursuant to section 1288 of this title, and any State plan developed pursuant to section 1313(e) of this title.

(3) For the purposes of this subsection the term "basin" includes, but is not limited to, rivers and their tributaries, streams, coastal waters, sounds, estuaries, bays, lakes, and portions thereof as well as the lands drained thereby.

(June 30, 1948, ch. 758, title I, § 102, as added Oct. 18, 1972, Pub. L. 92-500, § 2, 86 Stat. 817.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1252a, 1375 of this title.

EXECUTIVE ORDER NO. 10014

Ex. Ord. No. 10014, Nov. 5, 1948, 13 F.R. 6601, formerly set out under section 1151 of this title, which related to the cooperation of Federal and State agencies to prevent pollution of surface and underground waters, was superseded by Ex. Ord. No. 11258, Nov. 17, 1965, 30 F.R. 14483.

§ 1252a. Reservoir projects, water storage; modification; storage for other than for water quality, opinion of Federal agency, committee resolutions of approval; provisions inapplicable to projects with certain prescribed water quality benefits in relation to total project benefits

In the case of any reservoir project authorized for construction by the Corps of Engineers, Bureau of Reclamation, or other Federal agency when the Administrator of the Environmental Protection Agency determines pursuant to section 1252(b) of this title that any storage in such project for regulation of streamflow for water quality is not needed, or is needed in a different amount, such project may be modified accordingly by the head of the appropriate agency, and any storage no longer required for water quality may be utilized for other authorized purposes of the project when, in the opinion of the head of such agency, such use is justified. Any such modification of a project where the benefits attributable to water quality are 15 per centum or more but not greater than 25 per centum of the total project benefits shall take effect only upon the adoption of resolutions approving such modification by the appropriate committees of the Senate and House of Representatives. The provisions of the section shall not apply to any project where the benefits attributable to water quality exceed 25 per centum of the total project benefits.

(Pub. L. 93-251, title I, § 65, Mar. 7, 1974, 88 Stat. 30.)

CODIFICATION

Section was not enacted as part of act June 30, 1948, ch. 758, as added by act Oct. 18, 1972, Pub. L. 92-500, 86 Stat. 816, known as the Federal Water Pollution Control Act, which comprises this chapter.

§ 1253. Interstate cooperation and uniform laws

(a) The Administrator shall encourage cooperative activities by the States for the prevention, reduction, and elimination of pollution, encourage the enactment of improved and, so far as practicable, uniform State laws relating to the prevention, reduction, and elimination of pollution; and encourage compacts between States for the prevention and control of pollution.

(b) The consent of the Congress is hereby given to two or more States to negotiate and enter into agreements or compacts, not in conflict with any law or treaty of the United States, for (1) cooperative effort and mutual assistance for the prevention and control of pollution and the enforcement of their respective laws relating thereto, and (2) the establishment of such agencies, joint or otherwise, as they may deem desirable for making effective such agreements and compacts. No such agreement or compact shall be binding or obligatory upon any State a party thereto unless and until it has been approved by the Congress.

(June 30, 1948, ch. 758, title I, § 103, as added Oct. 18, 1972, Pub. L. 92-500, § 2, 86 Stat. 818.)

§ 1254. Research, investigations, training, and information

(a) Establishment of national programs; cooperation; investigations; water quality surveillance system; reports

The Administrator shall establish national programs for the prevention, reduction, and elimination of pollution and as part of such programs shall—

(1) in cooperation with other Federal, State, and local agencies, conduct and promote the coordination and acceleration of, research, investigations, experiments, training, demonstrations, surveys, and studies relating to the causes, effects, extent, prevention, reduction, and elimination of pollution;

(2) encourage, cooperate with, and render technical services to pollution control agencies and other appropriate public or private agencies, institutions, and organizations, and individuals, including the general public, in the conduct of activities referred to in paragraph (1) of this subsection;

(3) conduct, in cooperation with State water pollution control agencies and other interested agencies, organizations and persons, public investigations concerning the pollution of any navigable waters, and report on the results of such investigations;

(4) establish advisory committees composed of recognized experts in various aspects of pollution and representatives of the public to assist in the examination and evaluation of research progress and proposals and to avoid duplication of research;

(5) in cooperation with the States, and their political subdivisions, and other Federal agencies establish, equip, and maintain a water quality surveillance system for the purpose of monitoring the quality of the navigable waters and ground waters and the contiguous zone and the oceans and the Administrator shall, to the extent practicable, conduct such surveillance by utilizing the resources of the National Aeronautics and Space Administration, the National Oceanic and Atmospheric Administration, the Geological Survey, and the Coast Guard, and shall report on such quality in the report required under subsection (a) of section 1375 of this title; and

(6) initiate and promote the coordination and accelaration of research designed to develop the most effective practicable tools and techniques for measuring the social and economic costs and benefits of activities which are subject to regulation under this chapter; and shall transmit a report on the results of such research to the Congress not later than January 1, 1974.

(b) Authorized activities of Administrator

In carrying out the provisions of subsection (a) of this section the Administrator is authorized to—

(1) collect and make available, through publications and other appropriate means, the results of and other information, including appropriate recommendations by him in connection therewith, pertaining to such research and other activities referred to in paragraph (1) of subsection (a) of this section;

(2) cooperate with other Federal departments and agencies, State water pollution control agencies, interstate agencies, other public and private agencies, institutions, organizations, industries involved, and individuals, in the preparation and conduct of such research and other activities referred to in paragraph (1) of subsection (a) of this section;

(3) make grants to State water pollution control agencies, interstate agencies, other public or nonprofit private agencies, institutions, organizations, and individuals, for purposes stated in paragraph (1) of subsection (a) of this section;

(4) contract with public or private agencies, institutions, organizations, and individuals, without regard to section 529 of title 31 and section 5 of title 41, referred to in paragraph (1) of subsection (a) of this section;

(5) establish and maintain research fellowships at public or nonprofit private educational institutions or research organizations;

(6) collect and disseminate, in cooperation with other Federal departments and agencies, and with other public or private agencies, institutions, and organizations having related responsibilities, basic data on chemical, physical, and biological effects of varying water quality and other information pertaining to pollution and the prevention, reduction, and elimination thereof; and

(7) develop effective and practical processes, methods, and prototype devices for the prevention, reduction, and elimination of pollution.

(c) Research and studies on harmful effects of pollutants; cooperation with Secretary of Health, Education, and Welfare

In carrying out the provisions of subsection (a) of this section the Administrator shall conduct research on, and survey the results of other scientific studies on, the harmful effects on the health or welfare of persons caused by pollutants. In order to avoid duplication of effort, the Administrator shall, to the extent practicable, conduct such research in cooperation with and through the facilities of the Secretary of Health, Education, and Welfare.

(d) Sewage treatment; identification and measurement of effects of pollutants; augmented streamflow

In carrying out the provisions of this section the Administrator shall develop and demonstrate under varied conditions (including conducting such basic and applied research, studies, and experiments as may be necessary):

(1) Practicable means of treating municipal sewage, and other waterborne wastes to implement the requirements of section 1281 of this title;

(2) Improved methods and procedures to identify and measure the effects of pollutants, including those pollutants created by new technological developments; and

(3) Methods and procedures for evaluating the effects on water quality of augmented streamflows to control pollution not susceptible to other means of prevention, reduction, or elimination.

(e) Field laboratory and research facilities

The Administrator shall establish, equip, and maintain field laboratory and research facilities, including, but not limited to, one to be located in the northeastern area of the United States, one in the Middle Atlantic area, one in the southeastern area, one in the midwestern area, one in the southwestern area, one in the Pacific Northwest, and one in the State of Alaska, for the conduct of research, investigations, experiments, field demonstrations and studies, and training relating to the prevention, reduction and elimination of pollution. Insofar as practicable, each such facility shall be located near institutions of higher learning in which graduate training in such research might be carried out. In conjunction with the development of criteria under section 1343 of this title, the Administrator shall construct the facilities authorized for the National Marine Water Quality Laboratory established under this subsection.

(f) Great Lakes water quality research

The Administrator shall conduct research and technical development work, and make studies, with respect to the quality of the waters of the Great Lakes, including an analysis of the present and projected future water quality of the Great Lakes under varying conditions of waste treatment and disposal, an evaluation of the water quality needs of those to be served by such waters, an evaluation of municipal, industrial, and vessel waste treatment and disposal practices with respect to such waters, and a study of alternate means of solving pollution problems (including additional waste treatment measures) with respect to such waters.

(g) Treatment works pilot training programs; employment needs forecasting; training projects and grants; research fellowships; technical training; report to the President and transmittal to Congress

(1) For the purpose of providing an adequate supply of trained personnel to operate and maintain existing and future treatment works and related activities, and for the purpose of enhancing substantially the proficiency of those engaged in such activities, the Administrator shall finance pilot programs, in cooperation with State and interstate agencies, municipalities, educational institutions, and other organizations and individuals, of manpower development and training and retraining of persons in, on entering into, the field of operation and maintenance of treatment works and related activities. Such program and any funds expended for such a program shall supplement, not supplant, other manpower and training programs and funds available for the purposes of this paragraph. The Administrator is authorized, under such terms and conditions as he deems appropriate, to enter into agreements with one or more States, acting jointly or severally, or with other public or private agencies or institutions for the development and implementation of such a program.

(2) The Administrator is authorized to enter into agreements with public and private agencies and institutions, and individuals to develop and maintain an effective system for forecasting the supply of, and demand for, various pro-

fessional and other occupational categories needed for the prevention, reduction, and elimination of pollution in each region, State, or area of the United States and, from time to time, to publish the results of such forecasts.

(3) In furtherance of the purposes of this chapter, the Administrator is authorized to—

(A) make grants to public or private agencies and institutions and to individuals for training projects, and provide for the conduct of training by contract with public or private agencies and institutions and with individuals without regard to section 529 of title 31 and section 5 of title 41;

(B) establish and maintain research fellowships in the Environmental Protection Agency with such stipends and allowances, including traveling and subsistence expenses, as he may deem necessary to procure the assistance of the most promising research fellows; and

(C) provide, in addition to the program established under paragraph (1) of this subsection, training in technical matters relating to the causes, prevention, reduction, and elimination of pollution for personnel of public agencies and other persons with suitable qualifications.

(4) The Administrator shall submit, through the President, a report to the Congress not later than December 31, 1973, summarizing the actions taken under this subsection and the effectiveness of such actions, and setting forth the number of persons trained, the occupational categories for which training was provided, the effectiveness of other Federal, State, and local training programs in this field, together with estimates of future needs, recommendations on improving training programs, and such other information and recommendations, including legislative recommendations, as he deems appropriate.

(h) Lake pollution

The Administrator is authorized to enter into contracts with, or make grants to, public or private agencies and organizations and individuals for (A) the purpose of developing and demonstrating new or improved methods for the prevention, removal, reduction, and elimination of pollution in lakes, including the undesirable effects of nutrients and vegetation, and (B) the construction of publicly owned research facilities for such purpose.

(i) Oil pollution control studies

The Administrator, in cooperation with the Secretary of the Department in which the Coast Guard is operating, shall—

(1) engage in such research, studies, experiments, and demonstrations as he deems appropriate, relative to the removal of oil from any waters and to the prevention, control, and elimination of oil and hazardous substances pollution;

(2) publish from time to time the results of such activities; and

(3) from time to time, develop and publish in the Federal Register specifications and other technical information on the various chemical compounds used in the control of oil and hazardous substances spills.

In carrying out this subsection, the Administrator may enter into contracts with, or make grants to, public or private agencies and organizations and individuals.

(j) Solid waste disposal equipment for vessels

The Secretary of the department in which the Coast Guard is operating shall engage in such research, studies, experiments, and demonstrations as he deems appropriate relative to equipment which is to be installed on board a vessel and is designed to receive, retain, treat, or discharge human body wastes and the wastes from toilets and other receptacles intended to receive or retain body wastes with particular emphasis on equipment to be installed on small recreational vessels. The Secretary of the department in which the Coast Guard is operating shall report to Congress the results of such research, studies, experiments, and demonstrations prior to the effective date of any regulations established under section 1322 of this title. In carrying out this subsection the Secretary of the department in which the Coast Guard is operating may enter into contracts with, or make grants to, public or private organizations and individuals.

(k) Land acquisition

In carrying out the provisions of this section relating to the conduct by the Administrator of demonstration projects and the development of field laboratories and research facilities, the Administrator may acquire land and interests therein by purchase, with appropriated or donated funds, by donation, or by exchange for acquired or public lands under his jurisdiction which he classifies as suitable for disposition. The values of the properties so exchanged either shall be approximately equal, or if they are not approximately equal, the values shall be equalized by the payment of cash to the grantor or to the Administrator as the circumstances require.

(l) Collection and dissemination of scientific knowledge on effects and control of pesticides in water

(1) The Administrator shall, after consultation with appropriate local, State, and Federal agencies, public and private organizations, and interested individuals, as soon as practicable but not later than January 1, 1973, develop and issue to the States for the purpose of carrying out this chapter the latest scientific knowledge available in indicating the kind and extent of effects on health and welfare which may be expected from the presence of pesticides in the water in varying quantities. He shall revise and add to such information whenever necessary to reflect developing scientific knowledge.

(2) The President shall, in consultation with appropriate local, State, and Federal agencies, public and private organizations, and interested individuals, conduct studies and investigations of methods to control the release of pesticides into the environment which study shall include examination of the persistency of pesticides in the water environment and alternatives thereto. The President shall submit reports, from time to time, on such investigations to Congress together with his recommendations for any necessary legislation.

(m) Waste oil disposal study

(1) The Administrator shall, in an effort to prevent degradation of the environment from the disposal of waste oil, conduct a study of (A) the generation of used engine, machine, cooling, and similar waste oil, including quantities generated, the nature and quality of such oil, present collecting methods and disposal practices, and alternate uses of such oil; (B) the long-term, chronic biological effects of the disposal of such waste oil; and (C) the potential market for such oils, including the economic and legal factors relating to the sale of products made from such oils, the level of subsidy, if any, needed to encourage the purchase by public and private nonprofit agencies of products from such oil, and the practicability of Federal procurement, on a priority basis, of products made from such oil. In conducting such study, the Administrator shall consult with affected industries and other persons.

(2) The Administrator shall report the preliminary results of such study to Congress within six months after October 18, 1972, and shall submit a final report to Congress within 18 months after such date.

(n) Comprehensive studies of effects of pollution on estuaries and estuarine zones; reports

(1) The Administrator shall, in cooperation with the Secretary of the Army, the Secretary of Agriculture, the Water Resources Council, and with other appropriate Federal, State, interstate, or local public bodies and private organizations, institutions, and individuals, conduct and promote, and encourage contributions to, continuing comprehensive studies of the effects of pollution, including sedimentation, in the estuaries and estuarine zones of the United States on fish and wildlife, on sport and commercial fishing, on recreation, on water supply and water power, and on other beneficial purposes. Such studies shall also consider the effect of demographic trends, the exploitation of mineral resources and fossil fuels, land and industrial development, navigation, flood and erosion control, and other uses of estuaries and estuarine zones upon the pollution of the waters therein.

(2) In conducting such studies, the Administrator shall assemble, coordinate, and organize all existing pertinent information on the Nation's estuaries and estuarine zones; carry out a program of investigations and surveys to supplement existing information in representative estuaries and estuarine zones; and identify the problems and areas where further research and study are required.

(3) The Administrator shall submit to Congress, from time to time, reports of the studies authorized by this subsection but at least one such report during any three year period. Copies of each such report shall be made available to all interested parties, public and private.

(4) For the purpose of this subsection, the term "estuarine zones" means an environmental system consisting of an estuary and those transitional areas which are consistently influenced or affected by water from an estuary such as, but not limited to, salt marshes, coastal and intertidal areas, bays, harbors, lagoons, inshore waters, and channels, and the term "estuary" means all or part of the mouth of a river or stream or other body of water having unimpaired natural connection with open sea and within which the sea water is measurably diluted with fresh water derived from land drainage.

(o) Methods of reducing total flow of sewage and unnecessary water consumption; reports

(1) The Administrator shall conduct research and investigations on devices, systems, incentives, pricing policy, and other methods of reducing the total flow of sewage, including, but not limited to, unnecessary water consumption in order to reduce the requirements for, and the costs of, sewage and waste treatment services. Such research and investigations shall be directed to develop devices, systems, policies, and methods capable of achieving the maximum reduction of unnecessary water consumption.

(2) The Administrator shall report the preliminary results of such studies and investigations to the Congress within one year after October 18, 1972, and annually thereafter in the report required under subsection (a) of section 1375 of this title. Such report shall include recommendations for any legislation that may be required to provide for the adoption and use of devices, systems, policies, or other methods of reducing water consumption and reducing the total flow of sewage. Such report shall include an estimate of the benefits to be derived from adoption and use of such devices, systems, policies, or other methods and also shall reflect estimates of any increase in private, public, or other cost that would be occasioned thereby.

(p) Agricultural pollution

In carrying out the provisions of subsection (a) of this section the Administrator shall, in cooperation with the Secretary of Agriculture, other Federal agencies, and the States, carry out a comprehensive study and research program to determine new and improved methods and the better application of existing methods of preventing, reducing, and eliminating pollution from agriculture, including the legal, economic, and other implications of the use of such methods.

(q) Sewage in rural areas

(1) The Administrator shall conduct a comprehensive program of research and investigation and pilot project implementation into new and improved methods of preventing, reducing, storing, collecting, treating, or otherwise eliminating pollution from sewage in rural and other areas where collection of sewage in conventional, communitywide sewage collection systems is impractical, uneconomical, or otherwise infeasible, or where soil conditions or other factors preclude the use of septic tank and drainage field systems.

(2) The Administrator shall conduct a comprehensive program of research and investigation and pilot project implementation into new and improved methods for the collection and treatment of sewage and other liquid wastes combined with the treatment and disposal of solid wastes.

(r) Research grants to colleges and universities

The Administrator is authorized to make grants to colleges and universities to conduct basic research into the structure and function of freshwater aquatic ecosystems, and to im-

prove understanding of the ecological characteristics necessary to the maintenance of the chemical, physical, and biological integrity of freshwater aquatic ecosystems.

(s) River Study Centers

The Administrator is authorized to make grants to one or more institutions of higher education (regionally located and to be designated as "River Study Centers") for the purpose of conducting and reporting on interdisciplinary studies on the nature of river systems, including hydrology, biology, ecology, economics, the relationship between river uses and land uses, and the effects of development within river basins on river systems and on the value of water resources and water related activities. No such grant in any fiscal year shall exceed $1,000,000.

(t) Thermal discharges

The Administrator shall, in cooperation with State and Federal agencies and public and private organizations, conduct continuing comprehensive studies of the effects and methods of control of thermal discharges. In evaluating alternative methods of control the studies shall consider (1) such data as are available on the latest available technology, economic feasibility including cost-effectiveness analysis, and (2) the total impact on the environment, considering not only water quality but also air quality, land use, and effective utilization and conservation of freshwater and other natural resources. Such studies shall consider methods of minimizing adverse effects and maximizing beneficial effects of thermal discharges. The results of these studies shall be reported by the Administrator as soon as practicable, but not later than 270 days after October 18, 1972, and shall be made available to the public and the States, and considered as they become available by the Administrator in carrying out section 1326 of this title and by the States in proposing thermal water quality standards.

(u) Authorization of appropriations

There is authorized to be appropriated (1) $100,000,000 per fiscal year for the fiscal year ending June 30, 1973, the fiscal year ending June 30, 1974, and the fiscal year ending June 30, 1975, for carrying out the provisions of this section other than subsections (g)(1) and (2), (p), (r), and (t) of this section; (2) not to exceed $7,500,000 for fiscal years 1973, 1974, and 1975, for carrying out the provisions of subsection (g)(1) of this section; (3) not to exceed $2,500,000 for fiscal years 1973, 1974, and 1975, for carrying out the provisions of subsection (g)(2) of this section; (4) not to exceed $10,000,000 for each of the fiscal years ending June 30, 1973, June 30, 1974, and June 30, 1975, for carrying out the provisions of subsection (p) of this section; (5) not to exceed $15,000,000 per fiscal year for the fiscal years ending June 30, 1973, June 30, 1974, and June 30, 1975, for carrying out the provisions of subsection (r) of this section; and (6) not to exceed $10,000,000 per fiscal year for the fiscal years ending June 30, 1973, June 30, 1974, and June 30, 1975, for carrying out the provisions of subsection (t) of this section.

(June 30, 1948, ch. 758, title I, § 104, as added Oct. 18, 1972, Pub. L. 92-500, § 2, 86 Stat. 819, and amended Dec. 28, 1973, Pub. L. 93-207, § 1(1), 87 Stat. 906; Jan. 2, 1975, Pub. L. 93-592, § 1, 88 Stat. 1924.)

AMENDMENTS

1975—Subsec. (u)(1). Pub. L. 93-592, § 1(a), substituted "the fiscal year ending June 30, 1974, and the fiscal year ending June 30, 1975," for "and the fiscal year ending June 30, 1974,".

Subsec. (u)(2). Pub. L. 93-592, § 1(b), substituted "fiscal years 1973, 1974, and 1975" for "fiscal years 1973 and 1974".

Subsec. (u)(3). Pub. L. 93-592, § 1(c), substituted "fiscal years 1973, 1974, and 1975" for "fiscal year 1973".

Subsec. (u)(4). Pub. L. 93-592, § 1(d), substituted "June 30, 1974, and June 30, 1975," for "and June 30, 1974,".

Subsec. (u)(5). Pub. L. 93-592, § 1(e), substituted "June 30, 1974, and June 30, 1975," for "and June 30, 1974,".

Subsec. (u)(6). Pub. L. 93-592, § 1(f), substituted "June 30, 1974, and June 30, 1975," for "and June 30, 1974,".

1973—Subsec. (u)(2). Pub. L. 93-207 substituted "fiscal years 1973 and 1974" for "fiscal year 1973".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1255, 1322, 1376 of this title.

§ 1255. Grants for research and development

(a) Demonstration projects covering storm waters, advanced waste treatment and water purification methods, and joint treatment systems for municipal and industrial wastes

The Administrator is authorized to conduct in the Environmental Protection Agency, and to make grants to any State, municipality, or intermunicipal or interstate agency for the purpose of assisting in the development of—

(1) any project which will demonstrate a new or improved method of preventing, reducing, and eliminating the discharge into any waters of pollutants from sewers which carry storm water or both storm water and pollutants; or

(2) any project which will demonstrate advanced waste treatment and water purification methods (including the temporary use of new or improved chemical additives which provide substantial immediate improvements to existing treatment processes), or new or improved methods of joint treatment systems for municipal and industrial wastes;

and to include in such grants such amounts as are necessary for the purpose of reports, plans, and specifications in connection therewith.

(b) Demonstration projects for advanced treatment and environmental enhancement techniques to control pollution in river basins

The Administrator is authorized to make grants to any State or States or interstate agency to demonstrate, in river basins or portions thereof, advanced treatment and environmental enhancement techniques to control pollution from all sources, within such basins or portions thereof, including nonpoint sources,

together with in stream [1] water quality improvement techniques.

(c) Research and demonstration projects for prevention of water pollution by industry

In order to carry out the purposes of section 1311 of this title, the Administrator is authorized to (1) conduct in the Environmental Protection Agency, (2) make grants to persons, and (3) enter into contracts with persons, for research and demonstration projects for prevention of pollution of any waters by industry including, but not limited to, the prevention, reduction, and elimination of the discharge of pollutants. No grant shall be made for any project under this subsection unless the Administrator determines that such project will develop or demonstrate a new or improved method of treating industrial wastes or otherwise prevent pollution by industry, which method shall have industrywide application.

(d) Accelerated and priority development of waste management and waste treatment methods and identification and measurement methods

In carrying out the provisions of this section, the Administrator shall conduct, on a priority basis, an accelerated effort to develop, refine, and achieve practical application of:

(1) waste management methods applicable to point and nonpoint sources of pollutants to eliminate the discharge of pollutants, including, but not limited to, elimination of runoff of pollutants and the effects of pollutants from inplace or accumulated sources;

(2) advanced waste treatment methods applicable to point and nonpoint sources, including inplace or accumulated sources of pollutants, and methods for reclaiming and recycling water and confining pollutants so they will not migrate to cause water or other environmental pollution; and

(3) improved methods and procedures to identify and measure the effects of pollutants on the chemical, physical, and biological integrity of water, including those pollutants created by new technological developments.

(e) Research and demonstration projects covering agricultural pollution and pollution from sewage in rural areas; dissemination of information

(1) The Administrator is authorized to (A) make, in consultation with the Secretary of Agriculture, grants to persons for research and demonstration projects with respect to new and improved methods of preventing, reducing, and eliminating pollution from agriculture, and (B) disseminate, in cooperation with the Secretary of Agriculture, such information obtained under this subsection, section 1254(p) of this title, and section 1314 of this title as will encourage and enable the adoption of such methods in the agricultural industry.

(2) The Administrator is authorized, (A) in consultation with other interested Federal agencies, to make grants for demonstration projects with respect to new and improved methods of preventing, reducing, storing, collecting, treating, or otherwise eliminating pollution from sewage in rural and other areas where collection of sewage in conventional, community-wide sewage collection systems is impractical, uneconomical, or otherwise infeasible, or where soil conditions or other factors preclude the use of septic tank and drainage field systems, and (B) in cooperation with other interested Federal and State agencies, to disseminate such information obtained under this subsection as will encourage and enable the adoption of new and improved methods developed pursuant to this subsection.

(f) Limitations

Federal grants under subsection (a) of this section shall be subject to the following limitations:

(1) No grant shall be made for any project unless such project shall have been approved by the appropriate State water pollution control agency or agencies and by the Administrator;

(2) No grant shall be made for any project in an amount exceeding 75 per centum of cost thereof as determined by the Administrator; and

(3) No grant shall be made for any project unless the Administrator determines that such project will serve as a useful demonstration for the purpose set forth in clause (1) or (2) of subsection (a) of this section.

(g) Maximum grants

Federal grants under subsections (c) and (d) of this section shall not exceed 75 per centum of the cost of the project.

(h) Authorization of appropriations

For the purpose of this section there is authorized to be appropriated $75,000,000 per fiscal year for the fiscal year ending June 30, 1973, the fiscal year ending June 30, 1974, and the fiscal year ending June 30, 1975, and from such appropriations at least 10 per centum of the funds actually appropriated in each fiscal year shall be available only for the purposes of subsection (e) of this section.

(June 30, 1948, ch. 758, title I, § 105, as added Oct. 18, 1972, Pub. L. 92-500, § 2, 86 Stat. 825, and amended June 2, 1975, Pub. L. 93-592, § 2, 88 Stat. 1925.)

AMENDMENTS

1975—Subsec. (h). Pub. L. 93-592 substituted "the fiscal year ending June 30, 1974, and the fiscal year ending June 30, 1975," for "and the fiscal year ending June 30, 1974,".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1376 of this title.

§ 1256. Grants for pollution control programs

(a) Authorization of appropriations for state and interstate programs

There are hereby authorized to be appropriated the following sums, to remain available until expended, to carry out the purpose of this section—

(1) $60,000,000 for the fiscal year ending June 30, 1973; and

(2) $75,000,000 for the fiscal year ending June 30, 1974, and the fiscal year ending June 30, 1975;

for grants to States and to interstate agencies to assist them in administering programs for

[1] So in original.

the prevention, reduction, and elimination of pollution, including enforcement directly or through appropriate State law enforcement officers or agencies.

(b) Allotments

From the sums appropriated in any fiscal year, the Administrator shall make allotments to the several States and interstate agencies in accordance with regulations promulgated by him on the basis of the extent of the pollution problem in the respective States.

(c) Maximum annual payments

The Administrator is authorized to pay to each State and interstate agency each fiscal year either—

(1) the allotment of such State or agency for such fiscal year under subsection (b) of this section, or

(2) the reasonable costs as determined by the Administrator of developing and carrying out a pollution program by such State or agency during such fiscal year,

which ever amount is the lesser.

(d) Limitations

No grant shall be made under this section to any State or interstate agency for any fiscal year when the expenditure of non-Federal funds by such State or interstate agency during such fiscal year for the recurrent expenses of carrying out its pollution control program are less than the expenditure by such State or interstate agency of non-Federal funds for such recurrent program expenses during the fiscal year ending June 30, 1971.

(e) Grants prohibited to states not establishing water quality monitoring procedures or adequate emergency and contingency plans

Beginning in fiscal year 1974 the Administrator shall not make any grant under this section to any State which has not provided or is not carrying out as a part of its program—

(1) the establishment and operation of appropriate devices, methods, systems, and procedures necessary to monitor, and to compile and analyze data on (including classification according to eutrophic condition), the quality of navigable waters and to the extent practicable, ground waters including biological monitoring; and provision for annually updating such data and including it in the report required under section 1315 of this title;

(2) authority comparable to that in section 1364 of this title and adequate contingency plans to implement such authority.

(f) Conditions

Grants shall be made under this section on condition that—

(1) Such State (or interstate agency) files with the Administrator within one hundred and twenty days after October 18, 1972:

(A) a summary report of the current status of the State pollution control program, including the criteria used by the State in determining priority of treatment works; and

(B) such additional information, data, and reports as the Administrator may require.

(2) No federally assumed enforcement as defined in section 1319(a)(2) of this title is in effect with respect to such State or interstate agency.

(3) Such State (or interstate agency) submits within one hundred and twenty days after October 18, 1972, and before October 1 of each year thereafter for the Administrator's approval of its program for the prevention, reduction, and elimination of pollution in accordance with purposes and provisions of this chapter in such form and content as the Administrator may prescribe.

(g) Reallotment of unpaid allotments

Any sums allotted under subsection (b) of this section in any fiscal year which are not paid shall be reallotted by the Administrator in accordance with regulations promulgated by him.

(June 30, 1948, ch. 758, title I, § 106, as added Oct. 18, 1972, Pub. L. 92-500, § 2, 86 Stat. 827, and amended Jan. 2, 1975, Pub. L. 93-592, § 3, 88 Stat. 1925; Apr. 21, 1976, Pub. L. 94-273, § 3(20), 90 Stat. 377.)

AMENDMENTS

1976—Subsec. (f)(3). Pub. L. 94-273 substituted "October" for "July".

1975—Subsec. (a)(2). Pub. L. 93-592 substituted "June 30, 1974, and the fiscal year ending June 30, 1975;" for "June 30, 1974;".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1376 of this title.

§ 1257. Mine water pollution control demonstrations

(a) Comprehensive approaches to elimination or control of mine water pollution

The Administrator in cooperation with the Appalachian Regional Commission and other Federal agencies is authorized to conduct, to make grants for, or to contract for, projects to demonstrate comprehensive approaches to the elimination or control of acid or other mine water pollution resulting from active or abandoned mining operations and other environmental pollution affecting water quality within all or part of a watershed or river basin, including siltation from surface mining. Such projects shall demonstrate the engineering and economic feasibility and practicality of various abatement techniques which will contribute substantially to effective and practical methods of acid or other mine water pollution elimination or control, and other pollution affecting water quality, including techniques that demonstrate the engineering and economic feasibility and practicality of using sewage sludge materials and other municipal wastes to diminish or prevent pollution affecting water quality from acid, sedimentation, or other pollutants and in such projects to restore affected lands to usefulness for forestry, agriculture, recreation, or other beneficial purposes.

(b) Consistency of projects with objectives of Appalachian Regional Development Act of 1965

Prior to undertaking any demonstration project under this section in the Appalachian region (as defined in section 403 of the Appalachian Regional Development Act of 1965, as amended [40 App. U.S.C. 403]), the Appalachian Regional Commission shall determine

that such demonstration project is consistent with the objectives of the Appalachian Regional Development Act of 1965, as amended [40 App. U.S.C. 1 et seq].

(c) Watershed selection

The Administrator, in selecting watersheds for the purposes of this section, shall be satisfied that the project area will not be affected adversely by the influx of acid or other mine water pollution from nearby sources.

(d) Conditions upon Federal participation

Federal participation in such projects shall be subject to the conditions—

(1) that the State shall acquire any land or interests therein necessary for such project; and

(2) that the State shall provide legal and practical protection to the project area to insure against any activities which will cause future acid or other mine water pollution.

(e) Authorization of appropriations

There is authorized to be appropriated $30,000,000 to carry out the provisions of this section, which sum shall be available until expended.

(June 30, 1948, ch. 758, title I, § 107, as added Oct. 18, 1972, Pub. L. 92-500, § 2, 86 Stat. 828.)

REFERENCES IN TEXT

The Appalachian Regional Development Act of 1965, as amended, referred to in subsec. (b), is Pub. L. 89-4, Mar. 9, 1965, 79 Stat. 5, which is classified generally to § 1 et seq. of Title 40, App., Public Buildings, Property, and Works. For complete classification of this Act to the Code, see section 1 of Title 40 App. and Tables volume.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1376 of this title.

§ 1258. Pollution control in the Great Lakes

(a) Demonstration projects

The Administrator, in cooperation with other Federal departments, agencies, and instrumentalities is authorized to enter into agreements with any State, political subdivision, interstate agency, or other public agency, or combination thereof, to carry out one or more projects to demonstrate new methods and techniques and to develop preliminary plans for the elimination or control of pollution, within all or any part of the watersheds of the Great Lakes. Such projects shall demonstrate the engineering and economic feasibility and practicality of removal of pollutants and prevention of any polluting matter from entering into the Great Lakes in the future and other reduction and remedial techniques which will contribute substantially to effective and practical methods of pollution prevention, reduction, or elimination.

(b) Conditions of Federal participation

Federal participation in such projects shall be subject to the condition that the State, political subdivision, interstate agency, or other public agency, or combination thereof, shall pay not less than 25 per centum of the actual project costs, which payment may be in any form, including, but not limited to, land or interests therein that is needed for the project, and personal property or services the value of which shall be determined by the Administrator.

(c) Authorization of appropriations

There is authorized to be appropriated $20,000,000 to carry out the provisions of subsections (a) and (b) of this section, which sum shall be available until expended.

(d) Lake Erie demonstration program

(1) In recognition of the serious conditions which exist in Lake Erie, the Secretary of the Army, acting through the Chief of Engineers, is directed to design and develop a demonstration waste water management program for the rehabilitation and environmental repair of Lake Erie. Prior to the initiation of detailed engineering and design, the program, along with the specific recommendations of the Chief of Engineers, and recommendations for its financing, shall be submitted to the Congress for statutory approval. This authority is in addition to, and not in lieu of, other waste water studies aimed at eliminating pollution emanating from select sources around Lake Erie.

(2) This program is to be developed in cooperation with the Environmental Protection Agency, other interested departments, agencies, and instrumentalities of the Federal Government, and the States and their political subdivisions. This program shall set forth alternative systems for managing waste water on a regional basis and shall provide local and State governments with a range of choice as to the type of system to be used for the treatment of waste water. These alternative systems shall include both advanced waste treatment technology and land disposal systems including aerated treatment-spray irrigation technology and will also include provisions for the disposal of solid wastes, including sludge. Such program should include measures to control point sources of pollution, area sources of pollution, including acid-mine drainage, urban runoff and rural runoff, and in place sources of pollution, including bottom loads, sludge banks, and polluted harbor dredgings.

(e) Authorization of appropriations for Lake Erie demonstration program

There is authorized to be appropriated $5,000,000 to carry out the provisions of subsection (d) of this section, which sum shall be available until expended.

(June 30, 1948, ch. 758, title I, § 108, as added Oct. 18, 1972, Pub. L. 92-500, § 2, 86 Stat. 828.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1376 of this title.

§ 1259. Training grants and contracts

(a) The Administrator is authorized to make grants to or contracts with institutions of higher education, or combinations of such institutions, to assist them in planning, developing, strengthening, improving, or carrying out programs or projects for the preparation of undergraduate students to enter an occupation which involves the design, operation, and maintenance of treatment works, and other facilities whose purpose is water quality control. Such grants or

contracts may include payment of all or part of the cost of programs or projects such as—

(A) planning for the development or expansion of programs or projects for training persons in the operation and maintenance of treatment works;

(B) training and retraining of faculty members;

(C) conduct of short-term or regular session institutes for study by persons engaged in, or preparing to engage in, the preparation of students preparing to enter an occupation involving the operation and maintenance of treatment works;

(D) carrying out innovative and experimental programs of cooperative education involving alternate periods of full-time or part-time academic study at the institution and periods of full-time or part-time employment involving the operation and maintenance of treatment works; and

(E) research into, and development of, methods of training students or faculty, including the preparation of teaching materials and the planning of curriculum.

(b)(1) The Administrator may pay 100 per centum of any additional cost of construction of a treatment works required for a facility to train and upgrade waste treatment works operation and maintenance personnel.

(2) The Administrator shall make no more than one grant for such additional construction in any State (to serve a group of States, where, in his judgment, efficient training programs require multi-State programs), and shall make such grant after consultation with and approval by the State or States on the basis of (A) the suitability of such facility for training operation and maintenance personnel for treatment works throughout such State or States; and (B) a commitment by the State agency or agencies to carry out at such facility a program of training approved by the Administrator.

(3) The Administrator may make such grant out of the sums allocated to a State under section 1285 of this title, except that in no event shall the Federal cost of any such training facilities exceed $250,000.

(June 30, 1948, ch. 758, title I, § 109, as added Oct. 18, 1972, Pub. L. 92-500, § 2, 86 Stat. 829.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1260, 1262 and 1375 of this title.

§ 1260. Applications; allocation

(1) A grant or contract authorized by section 1259 of this title may be made only upon application to the Administrator at such time or times and containing such information as he may prescribe, except that no such application shall be approved unless it—

(A) sets forth programs, activities, research, or development for which a grant is authorized under section 1259 of this title and describes the relation to any program set forth by the applicant in an application, if any, submitted pursuant to section 1261 of this title;

(B) provides such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant under this section; and

(C) provides for making such reports, in such form and containing such information, as the Administrator may require to carry out his functions under this section, and for keeping such records and for affording such access thereto as the Administrator may find necessary to assure the correctness and verification of such reports.

(2) The Administrator shall allocate grants or contracts under section 1259 of this title in such manner as will most nearly provide an equitable distribution of the grants or contracts throughout the United States among institutions of higher education which show promise of being able to use funds effectively for the purpose of this section.

(3)(A) Payments under this section may be used in accordance with regulations of the Administrator, and subject to the terms and conditions set forth in an application approved under paragraph (1), to pay part of the compensation of students employed in connection with the operation and maintenance of treatment works, other than as an employee in connection with the operation and maintenance of treatment works or as an employee in any branch of the Government of the United States, as part of a program for which a grant has been approved pursuant to this section.

(B) Departments and agencies of the United States are encouraged, to the extent consistent with efficient administration, to enter into arrangements with institutions of higher education for the full-time, part-time, or temporary employment, whether in the competitive or excepted service, of students enrolled in programs set forth in applications approved under paragraph (1).

(June 30, 1948, ch. 758, title I, § 110, as added Oct. 18, 1972, Pub. L. 92-500, § 2, 86 Stat. 830.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1261, 1262, 1375 of this title.

§ 1261. Scholarships

(1) The Administrator is authorized to award scholarships in accordance with the provisions of this section for undergraduate study by persons who plan to enter an occupation involving the operation and maintenance of treatment works. Such scholarships shall be awarded for such periods as the Administrator may determine but not to exceed four academic years.

(2) The Administrator shall allocate scholarships under this section among institutions of higher education with programs approved under the provisions of this section for the use of individuals accepted into such programs in such manner and according to such plan as will insofar as practicable—

(A) provide an equitable distribution of such scholarships throughout the United States; and

(B) attract recent graduates of secondary schools to enter an occupation involving the operation and maintenance of treatment works.

(3) The Administrator shall approve a program of any institution of higher education for the purposes of this section only upon application by the institution and only upon his finding—

(A) that such program has a principal objective the education and training of persons in the operation and maintenance of treatment works;

(B) that such program is in effect and of high quality, or can be readily put into effect and may reasonably be expected to be of high quality;

(C) that the application describes the relation of such program to any program, activity, research, or development set forth by the applicant in an application, if any, submitted pursuant to section 1260 of this title; and

(D) that the application contains satisfactory assurances that (i) the institution will recommend to the Administrator for the award of scholarships under this section, for study in such program, only persons who have demonstrated to the satisfaction of the institution a serious intent, upon completing the program, to enter an occupation involving the operation and maintenance of treatment works, and (ii) the institution will make reasonable continuing efforts to encourage recipients of scholarships under this section, enrolled in such program, to enter occupations involving the operation and maintenance of treatment works upon completing the program.

(4)(A) The Administrator shall pay to persons awarded scholarships under this section such stipends (including such allowances for subsistence and other expenses for such persons and their dependents) as he may determine to be consistent with prevailing practices under comparable supported programs.

(B) The Administrator shall (in addition to the stipends paid to persons under paragraph (1)) pay to the institution of higher education at which such person is pursuing his course of study such amount as he may determine to be consistent with prevailing practices under comparable federally supported programs.

(5) A person awarded a scholarship under the provisions of this section shall continue to receive the payments provided in this section only during such periods as the Administrator finds that he is maintaining satisfactory proficiency and devoting full time to study or research in the field in which such scholarship was awarded in an institution of higher education, and is not engaging in gainful employment other than employment approved by the Administrator by or pursuant to regulation.

(6) The Administrator shall by regulation provide that any person awarded a scholarship under this section shall agree in writing to enter and remain in an occupation involving the design, operation, or maintenance of treatment works for such period after completion of his course of studies as the Administrator determines appropriate.

(June 30, 1948, ch. 758, title I, § 111, as added Oct. 18, 1972, Pub. L. 92-500, § 2, 86 Stat. 831.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1260, 1262, 1375 of this title.

§ 1262. Definitions and authorizations

(a) As used in sections 1259 through 1262 of this title—

(1) The term "institution of higher education" means an educational institution described in the first sentence of section 1141 of title 20 (other than an institution of any agency of the United States) which is accredited by a nationally recognized accrediting agency or association approved by the Administrator for this purpose. For purposes of this subsection, the Administrator shall publish a list of nationally recognized accrediting agencies or associations which he determines to be reliable authority as to the quality of training offered.

(2) The term "academic year" means an academic year or its equivalent, as determined by the Administrator.

(b) The Administrator shall annually report his activities under sections 1259 through 1262 of this title, including recommendations for needed revisions in the provisions thereof.

(c) There are authorized to be appropriated $25,000,000 per fiscal year for the fiscal years ending June 30, 1973, June 30, 1974, and June 30, 1975, to carry out sections 1259 through 1262 of this title.

(June 30, 1948, ch. 758, title I, § 112, as added Oct. 18, 1972, Pub. L. 92-500, § 2, 86 Stat. 832, and amended Jan. 2, 1975, Pub. L. 93-592, § 4, 88 Stat. 1925.)

AMENDMENTS

1975—Subsec. (c). Pub. L. 93-592 substituted "June 30, 1974, and June 30, 1975," for "and June 30, 1974,".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1376 of this title.

§ 1263. Alaska village demonstration projects

(a) Central community facilities for safe water; elimination or control of pollution

The Administrator is authorized to enter into agreements with the State of Alaska to carry out one or more projects to demonstrate methods to provide for central community facilities for safe water and eliminate or control of pollution in those native villages of Alaska without such facilities. Such project shall include provisions for community safe water supply systems, toilets, bathing and laundry facilities, sewage disposal facilities, and other similar facilities, and educational and informational facilities and programs relating to health and hygiene. Such demonstration projects shall be for the further purpose of developing preliminary plans for providing such safe water and such elimination or control of pollution for all native villages in such State.

(b) Utilization of personnel and facilities of Department of Health, Education, and Welfare

In carrying out this section the Administrator shall cooperate with the Secretary of Health, Education, and Welfare for the purpose of utilizing such of the personnel and facilities of that Department as may be appropriate.

(c) Omitted

(d) Authorization of appropriations

There is authorized to be appropriated not to exceed $2,000,000 to carry out this section.

(June 30, 1948, ch. 758, title I, § 113, as added Oct. 18, 1972, Pub. L. 92-500, § 2, 86 Stat. 832.)

CODIFICATION

Subsec. (c), which authorized the Administrator to report to Congress the results of the demonstration project accompanied by his recommendations for the establishment of a statewide project not later than July 1, 1973, was omitted from the Code as executed.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1376 of this title.

§ 1264. Omitted

CODIFICATION

Section, act June 30, 1948, ch. 758, title I, § 114, as added Oct. 18, 1972, Pub. L. 92-500, § 2, 86 Stat. 833, which authorized the Administrator, in consultation with the Tahoe Regional Planning Agency, the Secretary of Agriculture, other Federal agencies, representatives of State and local governments, and members of the public, to conduct a thorough and complete study on the need of extending Federal oversight and control in order to preserve the fragile ecology of Lake Tahoe and to report the results of this study to Congress not later than one year after Oct. 18, 1972, was omitted from the Code as executed.

§ 1265. In-place toxic pollutants

The Administrator is directed to identify the location of in-place pollutants with emphasis on toxic pollutants in harbors and navigable waterways and is authorized, acting through the Secretary of the Army, to make contracts for the removal and appropriate disposal of such materials from critical port and harbor areas. There is authorized to be appropriated $15,000,000 to carry out the provisions of this section, which sum shall be available until expended.

(June 30, 1948, ch. 758, title I, § 115, as added Oct. 18, 1972, Pub. L. 92-500, § 2, 86 Stat. 833.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1376 of this title.

SUBCHAPTER II—GRANTS FOR CONSTRUCTION OF TREATMENT WORKS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 1371 of this title; title 42 section 5153.

§ 1281. Congressional declaration of purpose

(a) It is the purpose of this subchapter to require and to assist the development and implementation of waste treatment management plans and practices which will achieve the goals of this chapter.

(b) Waste treatment management plans and practices shall provide for the application of the best practicable waste treatment technology before any discharge into receiving waters, including reclaiming and recycling of water, and confined disposal of pollutants so they will not migrate to cause water or other environmental pollution and shall provide for consideration of advanced waste treatment techniques.

(c) To the extent practicable, waste treatment management shall be on an areawide basis and provide control or treatment of all point and nonpoint sources of pollution, including in place or accumulated pollution sources.

(d) The Administrator shall encourage waste treatment management which results in the construction of revenue producing facilities providing for—

(1) the recycling of potential sewage pollutants through the production of agriculture, silviculture, or aquaculture products, or any combination thereof;

(2) the confined and contained disposal of pollutants not recycled;

(3) the reclamation of wastewater; and

(4) the ultimate disposal of sludge in a manner that will not result in environmental hazards.

(e) The Administrator shall encourage waste treatment management which results in integrating facilities for sewage treatment and recycling with facilities to treat, dispose of, or utilize other industrial and municipal wastes, including but not limited to solid waste and waste heat and thermal discharges. Such integrated facilities shall be designed and operated to produce revenues in excess of capital and operation and maintenance costs and such revenues shall be used by the designated regional management agency to aid in financing other environmental improvement programs.

(f) The Administrator shall encourage waste treatment management which combines "open space" and recreational considerations with such management.

(g)(1) The Administrator is authorized to make grants to any State, municipality, or intermunicipal or interstate agency for the construction of publicly owned treatment works.

(2) The Administrator shall not make grants from funds authorized for any fiscal year beginning after June 30, 1974, to any State, municipality, or intermunicipal or interstate agency for the erection, building, acquisition, alteration, remodeling, improvement, or extension of treatment works unless the grant applicant has satisfactorily demonstrated to the Administrator that—

(A) alternative waste management techniques have been studied and evaluated and the works proposed for grant assistance will provide for the application of the best practicable waste treatment technology over the life of the works consistent with the purposes of this subchapter; and

(B) as appropriate, the works proposed for grant assistance will take into account and allow to the extent practicable the application of technology at a later date which will provide for the reclaiming or recycling of water or otherwise eliminate the discharge of pollutants.

(3) The Administrator shall not approve any grant after July 1, 1973, for treatment works under this section unless the applicant shows to the satisfaction of the Administrator that each sewer collection system discharging into such

treatment works is not subject to excessive infiltration.

(4) The Administrator is authorized to make grants to applicants for treatment works grants under this section for such sewer system evaluation studies as may be necessary to carry out the requirements of paragraph (3) of this subsection. Such grants shall be made in accordance with rules and regulations promulgated by the Administrator. Initial rules and regulations shall be promulgated under this paragraph not later than 120 days after October 18, 1972.

(June 30, 1948, ch. 758, title II, § 201, as added Oct. 18, 1972, Pub. L. 92-500, § 2, 86 Stat. 833.)

ENVIRONMENTAL FINANCING AUTHORITY

Section 12 of Pub. L. 92-500 provided that:

"(a) [Short Title] This section may be cited as the Environmental Financing Act of 1972.

"(b) [Establishment] There is hereby created a body corporate to be known as the Environmental Financing Authority, which shall have succession until dissolved by Act of Congress. The Authority shall be subject to the general supervision and direction of the Secretary of the Treasury. The Authority shall be an instrumentality of the United States Government and shall maintain such offices as may be necessary or appropriate in the conduct of its business.

"(c) [Congressional Declaration of Purpose] The purpose of this section is to assure that inability to borrow necessary funds on reasonable terms does not prevent any State or local public body from carrying out any project for construction of waste treatment works determined eligible for assistance pursuant to subsection (e) of this section.

"(d) [Board of Directors] (1) The Authority shall have a Board of Directors consisting of five persons, one of whom shall be the Secretary of the Treasury or his designee as Chairman of the Board, and four of whom shall be appointed by the President from among the officers or employees of the Authority or of any department or agency of the United States Government.

"(2) The Board of Directors shall meet at the call of its Chairman. The Board shall determine the general policies which shall govern the operations of the Authority. The Chairman of the Board shall select and effect the appointment of qualified persons to fill the offices as may be provided for in the bylaws, with such executive functions, powers, and duties as may be prescribed by the bylaws or by the Board of Directors, and such persons shall be the executive officers of the Authority and shall discharge all such executive functions, powers, and duties. The members of the Board, as such, shall not receive compensation for their services.

"(e) [Purchase of State and Local Obligations] (1) Until July 1, 1975, the Authority is authorized to make commitments to purchase, and to purchase on terms and conditions determined by the Authority, any obligation or participation therein which is issued by a State or local public body to finance the non-Federal share of the cost of any project for the construction of waste treatment works which the Administrator of the Environmental Protection Agency has determined to be eligible for Federal financial assistance under the Federal Water Pollution Control Act [this chapter].

"(2) No commitment shall be entered into, and no purchase shall be made, unless the Administrator of the Environmental Protection Agency (A) has certified that the public body is unable to obtain on reasonable terms sufficient credit to finance its actual needs; (B) has approved the project as eligible under the Federal Water Pollution Control Act [this chapter], and (C) has agreed to guarantee timely payment of principal and interest on the obligation. The Administrator is authorized to guarantee such timely payments and to issue regulations as he deems necessary and proper to protect such guarantees. Appropriations are hereby authorized to be made to the Administrator in such sums as are necessary to make payments under such guarantees, and such payments are authorized to be made from such appropriations.

"(3) No purchase shall be made of obligations issued to finance projects, the permanent financing of which occurred prior to the enactment of this section [Oct. 18, 1972].

"(4) Any purchase by the Authority shall be upon such terms and conditions as to yield a return at a rate determined by the Secretary of the Treasury taking into consideration (A) the current average yield on outstanding marketable obligations of the United States of comparable maturity or in its stead whenever the Authority has sufficient of its own long-term obligations outstanding, the current average yield on outstanding obligations of the Authority of comparable maturity; and (B) the market yields on municipal bonds.

"(5) The Authority is authorized to charge fees for its commitments and other services adequate to cover all expenses and to provide for the accumulation of reasonable contingency reserves and such fees shall be included in the aggregate project costs.

"(f) [Initial Capital] To provide initial capital to the Authority the Secretary of the Treasury is authorized to advance the funds necessary for this purpose. Each such advance shall be upon such terms and conditions as to yield a return at a rate not less than a rate determined by the Secretary of the Treasury taking into consideration the current average yield on outstanding marketable obligations of the United States of comparable maturities. Interest payments on such advances may be deferred, at the discretion of the Secretary, but any such deferred payments shall themselves bear interest at the rate specified in this section. There is authorized to be appropriated not to exceed $100,000,000, which shall be available for the purposes of this subsection.

"(g) [Issuance of Obligations] (1) The Authority is authorized, with the approval of the Secretary of the Treasury, to issue and have outstanding obligations having such maturities and bearing such rate or rates of interest as may be determined by the Authority. Such obligations may be redeemable at the option of the Authority before maturity in such manner as may be stipulated therein.

"(2) As authorized in appropriation Acts, and such authorizations may be without fiscal year limitations, the Secretary of the Treasury may in his discretion purchase or agree to purchase any obligations issued pursuant to paragraph (1) of this subsection, and for such purpose the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds of the sale of any securities hereafter issued under the Second Liberty Bond Act [see Reference in Text note under section 774 of Title 31, Money and Finance], as now or hereafter in force, and the purposes for which securities may be issued under the Second Liberty Bond Act, as now or hereafter in force, are extended to include such purchases. Each purchase of obligations by the Secretary of the Treasury under this subsection shall be upon such terms and conditions as to yield a return at a rate not less than a rate determined by the Secretary of the Treasury, taking into consideration the current average yield on outstanding marketable obligations of the United States of comparable maturities. The Secretary of the Treasury may sell, upon such terms and conditions and at such price or prices as he shall determine, any of the obligations acquired by him under this paragraph. All purchases and sales by the Secretary of the Treasury of such obligations under this paragraph shall be treated as public debt transactions of the United States.

"(h) [Interest Differential] The Secretary of the Treasury is authorized and directed to make annual payments to the Authority in such amounts as are necessary to equal the amount by which the dollar amount of interest expense accrued by the Authority on account of its obligations exceeds the dollar amount of interest income accrued by the Authority

on account of obligations purchased by it pursuant to subsection (e) of this section.

"(i) [Powers] The Authority shall have power—

"(1) to sue and be sued, complain and defend, in its corporate name;

"(2) to adopt, alter, and use a corporate seal, which shall be judicially noticed;

"(3) to adopt, amend, and repeal bylaws, rules, and regulations as may be necessary for the conduct of its business;

"(4) to conduct its business, carry on its operations, and have offices and exercise the powers granted by this section in any State without regard to any qualification or similar statute in any State;

"(5) to lease, purchase, or otherwise acquire, own, hold, improve, use, or otherwise deal in and with any property, real, personal, or mixed, or any interest therein, wherever situated;

"(6) to accept gifts or donations of services, or of property, real, personal, or mixed, tangible or intangible, in aid of any of the purposes of the Authority;

"(7) to sell, convey, mortgage, pledge, lease, exchange, and otherwise dispose of its property and assets;

"(8) to appoint such officers, attorneys, employees, and agents as may be required, to define their duties, to fix and to pay such compensation for their services as may be determined, subject to the civil service and classification laws, to require bonds for them and pay the premium thereof; and

"(9) to enter into contracts, to execute instruments, to incur liabilities, and to do all things as are necessary or incidental to the proper management of its affairs and the proper conduct of its business.

"(j) [Tax Exemption, Exemptions] The Authority, its property, its franchise, capital, reserves, surplus, security holdings, and other funds, and its income shall be exempt from all taxation now or hereafter imposed by the United States or by any State or local taxing authority; except that (A) any real property and any tangible personal property of the Authority shall be subject to Federal, State, and local taxation to the same extent according to its value as other such property is taxed, and (B) any and all obligations issued by the Authority shall be subject both as to principal and interest to Federal, State, and local taxation to the same extent as the obligations of private corporations are taxed.

"(k) [Nature of Obligations] All obligations issued by the Authority shall be lawful investments, and may be accepted as security for all fiduciary, trust, and public funds, the investment or deposit of which shall be under authority or control of the United States or of any officer or officers thereof. All obligations issued by the Authority pursuant to this section shall be deemed to be exempt securities within the meaning of laws administered by the Securities and Exchange Commission, to the same extent as securities which are issued by the United States.

"(l) [Preparation of Obligations by Secretary of the Treasury] In order to furnish obligations for delivery by the Authority, the Secretary of the Treasury is authorized to prepare such obligations in such form as the Authority may approve, such obligations when prepared to be held in the Treasury subject to delivery upon order by the Authority. The engraved plates, dies, bed pieces, and so forth, executed in connection therewith, shall remain in the custody of the Secretary of the Treasury. The Authority shall reimburse the Secretary of the Treasury for any expenditures made in the preparation, custody, and delivery of such obligations.

"(m) [Annual Report to Congress] The Authority shall, as soon as practicable after the end of each fiscal year, transmit to the President and the Congress an annual report of its operations and activities.

"(n) [Subsec. (n) amended section 24 of Title 12, Banks and Banking, and is not set out herein.]

"(o) [Financial Controls] The budget and audit provisions of the Government Corporation Control Act (31 U.S.C. 846) shall be applicable to the Environmental Financing Authority in the same manner as they are applied to the wholly owned Government corporations.

"(p) [Subsec. (p) amended section 711 of Title 31, Money and Finance, and is not set out herein.]"

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1254, 1283, 1284, 1288, 1291, 1292, 1311, 1314, 1371, 1375 of this title.

§ 1282. Federal share

(a) The amount of any grant for treatment works made under this chapter from funds authorized for any fiscal year beginning after June 30, 1971, shall be 75 per centum of the cost of construction thereof (as approved by the Administrator). Any grant (other than for reimbursement) made prior to October 18, 1972, from any funds authorized for any fiscal year beginning after June 30, 1971, shall, upon the request of the applicant, be increased to the applicable percentage under this section.

(b) The amount of the grant for any project approved by the Administrator after January 1, 1971, and before July 1, 1971, for the construction of treatment works, the actual erection, building or acquisition of which was not commenced prior to July 1, 1971, shall, upon the request of the applicant, be increased to the applicable percentage under subsection (a) of this section for grants for treatment works from funds for fiscal years beginning after June 30, 1971, with respect to the cost of such actual erection, building, or acquisition. Such increased amount shall be paid from any funds allocated to the State in which the treatment works is located without regard to the fiscal year for which such funds were authorized. Such increased amount shall be paid for such project only if—

(1) a sewage collection system that is a part of the same total waste treatment system as the treatment works for which such grant was approved is under construction or is to be constructed for use in conjunction with such treatment works, and if the cost of such sewage collection system exceeds the cost of such treatment works, and

(2) the State water pollution control agency or other appropriate State authority certifies that the quantity of available ground water will be insufficient, inadequate, or unsuitable for public use, including the ecological preservation and recreational use of surface water bodies, unless effluents from publicly-owned treatment works after adequate treatment are returned to the ground water consistent with acceptable technological standards.

(June 30, 1948, ch. 758, title II, § 202, as added Oct. 18, 1972, Pub. L. 92-500, § 2, 86 Stat. 834.)

PROMULGATION OF FEDERAL SHARES

Act July 9, 1956, ch. 518, § 4, 70 Stat. 507, authorized the Surgeon General to promulgate Federal shares under the Federal Water Pollution Control Grant Program as soon as possible after July 9, 1956, in the manner specified in the Water Pollution Control Act, act June 30, 1948, ch. 758, 62 Stat. 1155, and provided that such shares were to be conclusive for the purposes of section 5 of act June 30, 1948.

§ 1283. Plans, specifications, estimates, and payments

(a) Submission; contractual nature of approval by Administrator

Each applicant for a grant shall submit to the Administrator for his approval, plans, specifications, and estimates for each proposed project for the construction of treatment works for which a grant is applied for under section 1281(g)(1) of this title from funds allotted to the State under section 1285 of this title and which otherwise meets the requirements of this chapter. The Administrator shall act upon such plans, specifications, and estimates as soon as practicable after the same have been submitted, and his approval of any such plans, specifications, and estimates shall be deemed a contractual obligation of the United States for the payment of its proportional contribution to such project.

(b) Periodic payments

The Administrator shall, from time to time as the work progresses, make payments to the recipient of a grant for costs of construction incurred on a project. These payments shall at no time exceed the Federal share of the cost of construction incurred to the date of the voucher covering such payment plus the Federal share of the value of the materials which have been stockpiled in the vicinity of such construction in conformity to plans and specifications for the project.

(c) Final payments

After completion of a project and approval of the final voucher by the Administrator, he shall pay out of the appropriate sums the unpaid balance of the Federal share payable on account of such project.

(d) Projects eligible

Nothing in this chapter shall be construed to require, or to authorize the Administrator to require, that grants under this chapter for construction of treatment works be made only for projects which are operable units usable for sewage collection, transportation, storage, waste treatment, or for similar purposes without additional construction.

(June 30, 1948, ch. 758, title II, § 203, as added Oct. 18, 1972, Pub. L. 92-500, § 2, 86 Stat. 835, and amended Jan. 2, 1974, Pub. L. 93-243, § 2, 87 Stat. 1069.)

AMENDMENTS

1974—Subsec. (d). Pub. L. 93-243 added subsec. (d).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1285, 1286, 1311 of this title.

§ 1284. Limitations and conditions

(a) Before approving grants for any project for any treatment works under section 1281(g)(1) of this title the Administrator shall determine—

(1) that such works are included in any applicable areawide waste treatment management plan developed under section 1288 of this title;

(2) that such works are in conformity with any applicable State plan under section 1313(e) of this title;

(3) that such works have been certified by the appropriate State water pollution control agency as entitled to priority over such other works in the State in accordance with any applicable State plan under section 1313(e) of this title;

(4) that the applicant proposing to construct such works agrees to pay the non-Federal costs of such works and has made adequate provisions satisfactory to the Administrator for assuring proper and efficient operation, including the employment of trained management and operations personnel, and the maintenance of such works in accordance with a plan of operation approved by the State water pollution control agency or, as appropriate, the interstate agency, after construction thereof;

(5) that the size and capacity of such works relate directly to the needs to be served by such works, including sufficient reserve capacity. The amount of reserve capacity provided shall be approved by the Administrator on the basis of a comparison of the cost of constructing such reserves as a part of the works to be funded and the anticipated cost of providing expanded capacity at a date when such capacity will be required;

(6) that no specification for bids in connection with such works shall be written in such a manner as to contain proprietary, exclusionary, or discriminatory requirements other than those based upon performance, unless such requirements are necessary to test or demonstrate a specific thing or to provide for necessary interchangeability of parts and equipment, or at least two brand names or trade names of comparable quality or utility are listed and are followed by the words "or equal".

(b)(1) Notwithstanding any other provision of this subchapter, the Administrator shall not approve any grant for any treatment works under section 1281(g)(1) of this title after March 1, 1973, unless he shall first have determined that the applicant (A) has adopted or will adopt a system of charges to assure that each recipient of waste treatment services within the applicant's jurisdiction, as determined by the Administrator, will pay its proportionate share of the costs of operation and maintenance (including replacement) of any waste treatment services provided by the applicant; (B) has made provision for the payment to such applicant by the industrial users of the treatment works, of that portion of the cost of construction of such treatment works (as determined by the Administrator) which is allocable to the treatment of such industrial wastes to the extent attributable to the Federal share of the cost of construction; and (C) has legal, institutional, managerial, and financial capability to insure adequate construction, operation, and maintenance of treatment works throughout the applicant's jurisdiction, as determined by the Administrator.

(2) The Administrator shall, within one hundred and eighty days after October 18, 1972, and after consultation with appropriate State, interstate, municipal, and intermunicipal agencies, issue guidelines applicable to payment of waste treatment costs by industrial and nonin-

dustrial recipients of waste treatment services which shall establish (A) classes of users of such services, including categories of industrial users; (B) criteria against which to determine the adequacy of charges imposed on classes and categories of users reflecting all factors that influence the cost of waste treatment, including strength, volume, and delivery flow rate characteristics of waste; and (C) model systems and rates of user charges typical of various treatment works serving municipal-industrial communities.

(3) The grantee shall retain an amount of the revenues derived from the payment of costs by industrial users of waste treatment services, to the extent costs are attributable to the Federal share of eligible project costs provided pursuant to this subchapter as determined by the Administrator, equal to (A) the amount of the non-Federal cost of such project paid by the grantee plus (B) the amount, determined in accordance with regulations promulgated by the Administrator, necessary for future expansion and reconstruction of the project, except that such retained amount shall not exceed 50 per centum of such revenues from such project. All revenues from such project not retained by the grantee shall be deposited by the Administrator in the Treasury as miscellaneous receipts. That portion of the revenues retained by the grantee attributable to clause (B) of the first sentence of this paragraph, together with any interest thereon shall be used solely for the purposes of future expansion and reconstruction of the project.

(4) Approval by the Administrator of a grant to an interstate agency established by interstate compact for any treatment works shall satisfy any other requirement that such works be authorized by Act of Congress.

(June 30, 1948, ch. 758, title II, § 204, as added Oct. 18, 1972, Pub. L. 92-500, § 2, 86 Stat. 835.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1293, 1342 of this title.

§ 1285. Allotment of grant funds

(a) Sums authorized to be appropriated pursuant to section 1287 of this title for each fiscal year beginning after June 30, 1972, shall be allotted by the Administrator not later than the January 1st immediately preceding the beginning of the fiscal year for which authorized, except that the allotment for fiscal year 1973 shall be made not later than 30 days after October 18, 1972. Such sums shall be allotted among the States by the Administrator in accordance with regulations promulgated by him, in the ratio that the estimated cost of constructing all needed publicly owned treatment works in each State bears to the estimated cost of construction of all needed publicly owned treatment works in all of the States. For the fiscal years ending June 30, 1973, and June 30, 1974, such ratio shall be determined on the basis of table III of House Public Works Committee Print No. 92-50. For the fiscal year ending June 30, 1975, such ratio shall be determined one-half on the basis of table I of House Public Works Committee Print Numbered 93-28 and one-half on the basis of table II of such print, except that no State shall receive an allotment less than that which it received for the fiscal year ending June 30, 1972, as set forth in table III of such print. Allotments for fiscal years which begin after the fiscal year ending June 30, 1975, shall be made only in accordance with a revised cost estimate made and submitted to Congress in accordance with section 1375(b) of this title and only after such revised cost estimate shall have been approved by law specifically enacted after October 18, 1972.

(b)(1) Any sums allotted to a State under subsection (a) of this section shall be available for obligation under section 1283 of this title on and after the date of such allotment. Such sums shall continue available for obligation in such State for a period of one year after the close of the fiscal year for which such sums are authorized. Any amounts so allotted which are not obligated by the end of such one-year period shall be immediately reallotted by the Administrator, in accordance with regulations promulgated by him, generally on the basis of the ratio used in making the last allotment of sums under this section. Such reallotted sums shall be added to the last allotments made to the States. Any sum made available to a State by reallotment under this subsection shall be in addition to any funds otherwise allotted to such State for grants under this subchapter during any fiscal year.

(2) Any sums which have been obligated under section 1283 of this title and which are released by the payment of the final voucher for the project shall be immediately credited to the State to which such sums were last allotted. Such released sums shall be added to the amounts last allotted to such State and shall be immediately available for obligation in the same manner and to the same extent as such last allotment.

(June 30, 1948, ch. 758, title II, § 205, as added Oct. 18, 1972, Pub. L. 92-500, § 2, 86 Stat. 837, and amended Jan. 2, 1974, Pub. L. 93-243, § 1, 87 Stat. 1069.)

AMENDMENTS

1974—Subsec. (a). Pub. L. 93-243 added provisions that for the fiscal year ending June 30, 1975, the ratio shall be determined one-half on the basis of table I of House Public Works Committee Print Numbered 93-28 and one-half on the basis of table II of such print, except that no State shall receive an allotment less than that which it received for the fiscal year ending June 30, 1972, as set forth in table III of such print and substituted "June 30, 1975" for "June 30, 1974" in the sentence beginning "Allotments for fiscal years".

PERIOD OF JULY 1, 1975, THROUGH SEPTEMBER 30, 1976, CONSIDERED AS ONE YEAR

Period of July 1, 1975, through Sept. 30, 1976, considered as one year for purposes of subsec. (b)(1) of this section, see section 206(5) of Pub. L. 94-274, title II, Apr. 21, 1976, 90 Stat. 394, set out as a note under section 1176 of Title 21, Food and Drugs.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1259, 1283 of this title.

§ 1286. Reimbursement and advanced construction

(a) Publicly owned treatment works construction initiated after June 30, 1966, but before July 1, 1972; reimbursement formula

Any publicly owned treatment works in a State on which construction was initiated after June 30, 1966, but before July 1, 1972, which was approved by the appropriate State water pollution control agency and which the Administrator finds meets the requirements of section 1158 of this title in effect at the time of the initiation of construction shall be reimbursed a total amount equal to the difference between the amount of Federal financial assistance, if any, received under such section 1158 of this title for such project and 50 per centum of the cost of such project, or 55 per centum of the project cost where the Administrator also determines that such treatment works was constructed in conformity with a comprehensive metropolitan treatment plan as described in section 1158(f) of this title as in effect immediately prior to October 18, 1972. Nothing in this subsection shall result in any such works receiving Federal grants from all sources in excess of 80 per centum of the cost of such project.

(b) Publicly owned treatment works construction initiated between June 30, 1956, and June 30, 1966; reimbursement formula

Any publicly owned treatment works constructed with or eligible for Federal financial assistance under this Act in a State between June 30, 1956, and June 30, 1966, which was approved by the State water pollution control agency and which the Administrator finds meets the requirements of section 1158 of this title prior to October 18, 1972 but which was constructed without assistance under such section 1158 of this title or which received such assistance in an amount less than 30 per centum of the cost of such project shall qualify for payments and reimbursement of State or local funds used for such project from sums allocated to such State under this section in an amount which shall not exceed the difference between the amount of such assistance, if any, received for such project and 30 per centum of the cost of such project.

(c) Application for reimbursement

No publicly owned treatment works shall receive any payment or reimbursement under subsection (a) or (b) of this section unless an application for such assistance is filed with the Administrator within the one year period which begins on October 18, 1972. Any application filed within such one year period may be revised from time to time, as may be necessary.

(d) Allocation of funds

The Administrator shall allocate to each qualified project under subsection (a) of this section each fiscal year for which funds are appropriated under subsection (e) of this section an amount which bears the same ratio to the unpaid balance of the reimbursement due such project as the total of such funds for such year bears to the total unpaid balance of reimbursement due all such approved projects on the date of enactment of such appropriation. The Administrator shall allocate to each qualified project under subsection (b) of this section each fiscal year for which funds are appropriated under subsection (e) of this section an amount which bears the same ratio to the unpaid balance of the reimbursement due such project as the total of such funds for such year bears to the total unpaid balance of reimbursement due all such approved projects on the date of enactment of such appropriation.

(e) Authorization of appropriations

There is authorized to be appropriated to carry out subsection (a) of this section not to exceed $2,600,000,000 and, to carry out subsection (b) of this section, not to exceed $750,000,000. The authorizations contained in this subsection shall be the sole source of funds for reimbursements authorized by this section.

(f) Additional funds

(1) In any case where all funds allotted to a State under this subchapter have been obligated under section 1283 of this title, and there is construction of any treatment works project without the aid of Federal funds and in accordance with all procedures and all requirements applicable to treatment works projects, except those procedures and requirements which limit construction of projects to those constructed with the aid of previously allotted Federal funds, the Administrator, upon his approval of an application made under this subsection therefor, is authorized to pay the Federal share of the cost of construction of such project when additional funds are allotted to the State under this subchapter if prior to the construction of the project the Administrator approves plans, specifications, and estimates therefor in the same manner as other treatment works projects. The Administrator may not approve an application under this subsection unless an authorization is in effect for the future fiscal year for which the application requests payment, which authorization will insure such payment without exceeding the State's expected allotment from such authorization.

(2) In determining the allotment for any fiscal year under this subchapter, any treatment works project constructed in accordance with this section and without the aid of Federal funds shall not be considered completed until an application under the provisions of this subsection with respect to such project has been approved by the Administrator, or the availability of funds from which this project is eligible for reimbursement has expired, whichever first occurs.

(June 30, 1948, ch. 758, title II, § 206, as added Oct. 18, 1972, Pub. L. 92-500, § 2, 86 Stat. 836, and amended Dec. 28, 1973, Pub. L. 93-207, § 1(2), 87 Stat. 906.)

REFERENCES IN TEXT

Section 1158 of this title, referred to in subsecs. (a) and (b), refers to section 8 of act June 30, 1948, ch. 758, 62 Stat. 1158, prior to the supersedure and reenactment of act June 30, 1948, by act Oct. 18, 1972, Pub. L. 92-500, 86 Stat. 816. Provisions of section 1158 of this title are now covered by this subchapter.

This Act, referred to in subsec. (b), means act June 30, 1948, ch. 758, 62 Stat. 1155, prior to the supersedure and reenactment of act June 30, 1948 by act Oct. 18, 1972, Pub. L. 92-500, 86 Stat. 816. Act June 30, 1948, ch. 758, as added by act Oct. 18, 1972, Pub. L. 92-500, 86 Stat. 816, enacted this chapter.

AMENDMENTS

1973—Subsec. (e). Pub. L. 93-207 substituted "$2,600,000,000" for "$2,000,000,000".

APPLICATION FOR ASSISTANCE

Section 2 of Pub. L. 93-207 provided that notwithstanding the requirements of subsec. (c) of this section, applications for assistance under this section could have been filed with the Administrator until Jan. 31, 1974.

ALLOCATION OF CONSTRUCTION GRANTS APPROPRIATED FOR THE YEAR ENDING JUNE 30, 1973; INTERIM PAYMENTS; LIMITATIONS

Section 3 of Pub. L. 93-207 provided that: "Funds available for reimbursement under Public Law 92-399 [making appropriations for Agriculture-Environmental and Consumer Protection Programs for the fiscal year ending June 30, 1973] shall be allocated in accordance with subsection (d) of section 206 of the Federal Water Pollution Control Act (86 Stat. 838) [subsec. (d) of this section], pro rata among all projects eligible under subsection (a) of such section 206 [subsec. (a) of this section] for which applications have been submitted and approved by the Administrator pursuant to such Act [this chapter]. Notwithstanding the provisions of subsection (d) of such section 206, (1) the Administrator is authorized to make interim payments to each such project for which an application has been approved on the basis of estimates of maximum pro rata entitlement of all applicants under section 206(a) and (2) for the purpose of determining allocation of sums available under Public Law 92-399, the unpaid balance of reimbursement due such projects shall be computed as of January 31, 1974. Upon completion by the Administrator of his audit and approval of all projects for which an application has been filed under subsection (a) of such section 206, the Administrator shall, within the limits of appropriated funds, allocate to each such qualified project the amount remaining, if any, of its total entitlement. Amounts allocated to projects which are later determined to be in excess of entitlement shall be available for reallocation, until expended, to other qualified projects under subsection (a) of such section 206. In no event, however, shall any payments exceed the Federal share of the cost of construction incurred to the date of the voucher covering such payment plus the Federal share of the value of the materials which have been stockpiled in the vicinity of such construction in conformity to plans and specifications for the project."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1287, 1293, 1376 of this title.

§ 1287. Authorization of appropriations

There is authorized to be appropriated to carry out this subchapter, other than sections 1286(e), 1288 and 1289 of this title, for the fiscal year ending June 30, 1973, not to exceed $5,000,000,000, for the fiscal year ending June 30, 1974, not to exceed $6,000,000,000, and for the fiscal year ending June 30, 1975, not to exceed $7,000,000,000.

(June 30, 1948, ch. 758, title II, § 207, as added Oct. 18, 1972, Pub. L. 92-500, § 2, 86 Stat. 839, and amended Dec. 28, 1973, Pub. L. 93-207, § 1(3), 87 Stat. 906.)

AMENDMENTS

1973—Pub. L. 93-207 added reference to section 1286(e) of this title.

ADDITIONAL AUTHORIZATION OF APPROPRIATIONS

Pub. L. 94-369, title III, § 301, July 22, 1976, 90 Stat. 1011, provided that: "There is authorized to be appropriated to carry out title II of the Federal Water Pollution Control Act [this subchapter], other than sections 206, 208, and 209 [sections 1286, 1288, and 1289 of this title], for the fiscal year ending September 30, 1977, not to exceed $700,000,000 which sum (subject to such amounts as are provided in appropriation Acts) shall be allotted to each State listed in column 1 of table IV contained in House Public Works and Transportation Committee Print numbered 94-25 in accordance with the percentages provided for such State (if any) in column 5 of such table. The sum authorized by this section shall be in addition to, and not in lieu of, any funds otherwise authorized to carry out such title during such fiscal year. Any sums allotted to a State under this section shall be available until expended."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1285, 1376 of this title.

§ 1288. Areawide waste treatment management

(a) Identification and designation of areas having substantial water quality control problems

For the purpose of encouraging and facilitating the development and implementation of areawide waste treatment management plans—

(1) The Administrator, within ninety days after October 18, 1972, and after consultation with appropriate Federal, State, and local authorities, shall by regulation publish guidelines for the identification of those areas which, as a result of urban-industrial concentrations or other factors, have substantial water quality control problems.

(2) The Governor of each State, within sixty days after publication of the guidelines issued pursuant to paragraph (1) of this subsection, shall identify each area within the State which, as a result of urban-industrial concentrations or other factors, has substantial water quality control problems. Not later than one hundred and twenty days following such identification and after consultation with appropriate elected and other officials of local governments having jurisdiction in such areas, the Governor shall designate (A) the boundaries of each such area, and (B) a single representative organization, including elected officials from local governments or their designees, capable of developing effective areawide waste treatment management plans for such area. The Governor may in the same manner at any later time identify any additional area (or modify an existing area) for which he determines areawide waste treatment management to be appropriate, designate the boundaries of such area, and designate an organization capable of developing effective areawide waste treatment management plans for such area.

(3) With respect to any area which, pursuant to the guidelines published under paragraph (1) of this subsection, is located in two or more States, the Governors of the respective States shall consult and cooperate in carrying out the provisions of paragraph (2), with a view toward designating the boundaries of the interstate area having common water quality control problems and for which areawide waste treatment management plans would be most effective, and toward designat-

ing, within one hundred and eighty days after publication of guidelines issued pursuant to paragraph (1) of this subsection, of a single representative organization capable of developing effective areawide waste treatment management plans for such area.

(4) If a Governor does not act, either by designating or determining not to make a designation under paragraph (2) of this subsection, within the time required by such paragraph, or if, in the case of an interstate area, the Governors of the States involved do not designate a planning organization within the time required by paragraph (3) of this subsection, the chief elected officials of local governments within an area may by agreement designate (A) the boundaries for such an area, and (B) a single representative organization including elected officials from such local governments, or their designees, capable of developing an areawide waste treatment management plan for such area.

(5) Existing regional agencies may be designated under paragraphs (2), (3), and (4) of this subsection.

(6) The State shall act as a planning agency for all portions of such State which are not designated under paragraphs (2), (3), or (4) of this subsection.

(7) Designations under this subsection shall be subject to the approval of the Administrator.

(b) Planning process

(1) Not later than one year after the date of designation of any organization under subsection (a) of this section such organization shall have in operation a continuing areawide waste treatment management planning process consistent with section 1281 of this title. Plans prepared in accordance with this process shall contain alternatives for waste treatment management, and be applicable to all wastes generated within the area involved. The initial plan prepared in accordance with such process shall be certified by the Governor and submitted to the Administrator not later than two years after the planning process is in operation.

(2) Any plan prepared under such process shall include, but not be limited to—

(A) the identification of treatment works necessary to meet the anticipated municipal and industrial waste treatment needs of the area over a twenty-year period, annually updated (including an analysis of alternative waste treatment systems), including any requirements for the acquisition of land for treatment purposes; the necessary waste water collection and urban storm water runoff systems; and a program to provide the necessary financial arrangements for the development of such treatment works;

(B) the establishment of construction priorities for such treatment works and time schedules for the initiation and completion of all treatment works;

(C) the establishment of a regulatory program to—

(i) implement the waste treatment management requirements of section 1281(c) of this title,

(ii) regulate the location, modification, and construction of any facilities within such area which may result in any discharge in such area, and

(iii) assure that any industrial or commercial wastes discharged into any treatment works in such area meet applicable pretreatment requirements;

(D) the identification of those agencies necessary to construct, operate, and maintain all facilities required by the plan and otherwise to carry out the plan;

(E) the identification of the measures necessary to carry out the plan (including financing), the period of time necessary to carry out the plan, the costs of carrying out the plan within such time, and the economic, social, and environmental impact of carrying out the plan within such time;

(F) a process to (i) identify, if appropriate, agriculturally and silviculturally related nonpoint sources of pollution, including runoff from manure disposal areas, and from land used for livestock and crop production, and (ii) set forth procedures and methods (including land use requirements) to control to the extent feasible such sources;

(G) a process to (i) identify, if appropriate, mine-related sources of pollution including new, current, and abandoned surface and underground mine runoff, and (ii) set forth procedures and methods (including land use requirements) to control to the extent feasible such sources;

(H) a process to (i) identify construction activity related sources of pollution, and (ii) set forth procedures and methods (including land use requirements) to control to the extent feasible such sources;

(I) a process to (i) identify, if appropriate, salt water intrusion into rivers, lakes, and estuaries resulting from reduction of fresh water flow from any cause, including irrigation, obstruction, ground water extraction, and diversion, and (ii) set forth procedures and methods to control such intrusion to the extent feasible where such procedures and methods are otherwise a part of the waste treatment management plan;

(J) a process to control the disposition of all residual waste generated in such area which could affect water quality; and

(K) a process to control the disposal of pollutants on land or in subsurface excavations within such area to protect ground and surface water quality.

(3) Areawide waste treatment management plans shall be certified annually by the Governor or his designee (or Governors or their designees, where more than one State is involved) as being consistent with applicable basin plans and such areawide waste treatment management plans shall be submitted to the Administrator for his approval.

(4) Whenever the Governor of any State determines (and notifies the Administrator) that consistency with a statewide regulatory program under section 1313 of this title so requires, the requirements of clauses (F) through (K) of paragraph (2) of this subsection shall be developed and submitted by the Governor to the Administrator for application to all regions within such State.

(c) Regional operating agencies

(1) The Governor of each State, in consultation with the planning agency designated under subsection (a) of this section, at the time a plan is submitted to the Administrator, shall designate one or more waste treatment management agencies (which may be an existing or newly created local, regional, or State agency or political subdivision) for each area designated under subsection (a) of this section and submit such designations to the Administrator.

(2) The Administrator shall accept any such designation, unless, within 120 days of such designation, he finds that the designated management agency (or agencies) does not have adequate authority—

(A) to carry out appropriate portions of an areawide waste treatment management plan developed under subsection (b) of this section;

(B) to manage effectively waste treatment works and related facilities serving such area in conformance with any plan required by subsection (b) of this section;

(C) directly or by contract, to design and construct new works, and to operate and maintain new and existing works as required by any plan developed pursuant to subsection (b) of this section;

(D) to accept and utilize grants, or other funds from any source, for waste treatment management purposes;

(E) to raise revenues, including the assessment of waste treatment charges;

(F) to incur short- and long-term indebtedness;

(G) to assure in implementation of an areawide waste treatment management plan that each participating community pays its proportionate share of treatment costs;

(H) to refuse to receive any wastes from any municipality or subdivision thereof, which does not comply with any provisions of an approved plan under this section applicable to such area; and

(I) to accept for treatment industrial wastes.

(d) Conformity of works with area plan

After a waste treatment management agency having the authority required by subsection (c) of this section has been designated under such subsection for an area and a plan for such area has been approved under subsection (b) of this section, the Administrator shall not make any grant for construction of a publicly owned treatment works under section 1281(g)(1) of this title within such area except to such designated agency and for works in conformity with such plan.

(e) Permits not to conflict with approved plans

No permit under section 1342 of this title shall be issued for any point source which is in conflict with a plan approved pursuant to subsection (b) of this section.

(f) Grants

(1) The Administrator shall make grants to any agency designated under subsection (a) of this section for payment of the reasonable costs of developing and operating a continuing areawide waste treatment management planning process under subsection (b) of this section.

(2) The amount granted to any agency under paragraph (1) of this subsection shall be 100 per centum of the costs of developing and operating a continuing areawide waste treatment management planning process under subsection (b) of this section for each of the fiscal years ending on June 30, 1973, June 30, 1974, and June 30, 1975, and shall not exceed 75 per centum of such costs in each succeeding fiscal year.

(3) Each applicant for a grant under this subsection shall submit to the Administrator for his approval each proposal for which a grant is applied for under this subsection. The Administrator shall act upon such proposal as soon as practicable after it has been submitted, and his approval of that proposal shall be deemed a contractual obligation of the United States for the payment of its contribution to such proposal. There is authorized to be appropriated to carry out this subsection not to exceed $50,000,000 for the fiscal year ending June 30, 1973, not to exceed $100,000,000 for the fiscal year ending June 30, 1974, and not to exceed $150,000,000 for the fiscal year ending June 30, 1975.

(g) Technical assistance by Administrator

The Administrator is authorized, upon request of the Governor or the designated planning agency, and without reimbursement, to consult with, and provide technical assistance to, any agency designated under subsection (a) of this section in the development of areawide waste treatment management plans under subsection (b) of this section.

(h) Technical assistance by Secretary of the Army

(1) The Secretary of the Army, acting through the Chief of Engineers, in cooperation with the Administrator is authorized and directed, upon request of the Governor or the designated planning organization, to consult with, and provide technical assistance to, any agency designed[1] under subsection (a) of this section in developing and operating a continuing areawide waste treatment management planning process under subsection (b) of this section.

(2) There is authorized to be appropriated to the Secretary of the Army, to carry out this subsection, not to exceed $50,000,000 per fiscal year for the fiscal years ending June 30, 1973, and June 30, 1974.

(June 30, 1948, ch. 758, title II, § 208, as added Oct. 18, 1972, Pub. L. 92-500, § 2, 86 Stat. 839.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1252, 1284, 1287, 1289, 1313, 1314, 1362, 1375, 1376 of this title; title 42 section 6946.

§ 1289. Basin planning

(a) The President, acting through the Water Resources Council, shall, as soon as practicable, prepare a Level B plan under the Water Resources Planning Act [42 U.S.C. 1962 et seq.] for all basins in the United States. All such plans shall be completed not later than Janu-

[1] So in original probably should be "designated".

ary 1, 1980, except that priority in the preparation of such plans shall be given to those basins and portions thereof which are within those areas designated under paragraphs (2), (3), and (4) of subsection (a) of section 1288 of this title.

(b) The President, acting through the Water Resources Council, shall report annually to Congress on progress being made in carrying out this section. The first such report shall be submitted not later than January 31, 1973.

(c) There is authorized to be appropriated to carry out this section not to exceed $200,000,000.

(June 30, 1948, ch. 758, title II, § 209, as added Oct. 18, 1972, Pub. L. 92-500, § 2, 86 Stat. 843.)

REFERENCES IN TEXT

The Water Resources Planning Act, referred to in subsec. (a), is Pub. L. 89-80, July 22, 1965, 79 Stat. 244, as amended, which is classified generally to chapter 19B (§ 1962 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1962 of Title 42 and Tables volume.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1287, 1313, 1375, 1376 of this title.

§ 1290. Annual survey

The Administrator shall annually make a survey to determine the efficiency of the operation and maintenance of treatment works constructed with grants made under this chapter, as compared to the efficiency planned at the time the grant was made. The results of such annual survey shall be included in the report required under section 1375(a) of this title.

(June 30, 1948, ch. 758, title II, § 210, as added Oct. 18, 1972, Pub. L. 92-500, § 2, 86 Stat. 843.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1375 of this title.

§ 1291. Sewage collection systems

No grant shall be made for a sewage collection system under this subchapter unless such grant (1) is for replacement or major rehabilitation of an existing collection system and is necessary to the total integrity and performance of the waste treatment works servicing such community, or (2) is for a new collection system in an existing community with sufficient existing or planned capacity adequately to treat such collected sewage and is consistent with section 1281 of this title.

(June 30, 1948, ch. 758, title II, § 211, as added Oct. 18, 1972, Pub. L. 92-500, § 2, 86 Stat. 843.)

§ 1292. Definitions

As used in this subchapter—

(1) The term "construction" means any one or more of the following: preliminary planning to determine the feasibility of treatment works, engineering, architectural, legal, fiscal, or economic investigations or studies, surveys, designs, plans, working drawings, specifications, procedures, or other necessary actions, erection, building, acquisition, alteration, remodeling, improvement, or extension of treatment works, or the inspection or supervision of any of the foregoing items.

(2)(A) The term "treatment works" means any devices and systems used in the storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature to implement section 1281 of this title, or necessary to recycle or reuse water at the most economical cost over the estimated life of the works, including intercepting sewers, outfall sewers, sewage collection systems, pumping, power, and other equipment, and their appurtenances; extensions, improvements, remodeling, additions, and alterations thereof; elements essential to provide a reliable recycled supply such as standby treatment units and clear well facilities; and any works, including site acquisition of the land that will be an integral part of the treatment process or is used for ultimate disposal of residues resulting from such treatment.

(B) In addition to the definition contained in subparagraph (A) of this paragraph, "treatment works" means any other method or system for preventing, abating, reducing, storing, treating, separating, or disposing of municipal waste, including storm water runoff, or industrial waste, including waste in combined storm water and sanitary sewer systems. Any application for construction grants which includes wholly or in part such methods or systems shall, in accordance with guidelines published by the Administrator pursuant to subparagraph (C) of this paragraph, contain adequate data and analysis demonstrating such proposal to be, over the life of such works, the most cost efficient alternative to comply with sections 1311 or 1312 of this title, or the requirements of section 1281 of this title.

(C) For the purposes of subparagraph (B) of this paragraph, the Administrator shall, within one hundred and eighty days after October 18, 1972, publish and thereafter revise no less often than annually, guidelines for the evaluation of methods, including cost-effective analysis, described in subparagraph (B) of this paragraph.

(3) The term "replacement" as used in this subchapter means those expenditures for obtaining and installing equipment, accessories, or appurtenances during the useful life of the treatment works necessary to maintain the capacity and performance for which such works are designed and constructed.

(June 30, 1948, ch. 758, title II, § 212, as added Oct. 18, 1972, Pub. L. 92-500, § 2, 86 Stat. 844.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1317, 1342, 1345, 1375 of this title.

§ 1293. Loan guarantees

(a) State or local obligations issued exclusively to Federal Financing Bank for publicly owned treatment works; determination of eligibility of project by Administrator

Subject to the conditions of this section and to such terms and conditions as the Administrator determines to be necessary to carry out the purposes of this subchapter, the Administrator is authorized to guarantee, and to make commitments to guarantee, the principal and inter-

est (including interest accruing between the date of default and the date of the payment in full of the guarantee) of any loan, obligation, or participation therein of any State, municipality, or intermunicipal or interstate agency issued directly and exclusively to the Federal Financing Bank to finance that part of the cost of any grant-eligible project for the construction of publicly owned treatment works not paid for with Federal financial assistance under this subchapter (other than this section), which project the Administrator has determined to be eligible for such financial assistance under this subchapter, including, but not limited to, projects eligible for reimbursement under section 1286 of this title.

(b) Conditions for issuance

No guarantee, or commitment to make a guarantee, may be made pursuant to this section—

(1) unless the Administrator certifies that the issuing body is unable to obtain on reasonable terms sufficient credit to finance its actual needs without such guarantee; and

(2) unless the Administrator determines that there is a reasonable assurance of repayment of the loan, obligation, or participation therein.

A determination of whether financing is available at reasonable rates shall be made by the Secretary of the Treasury with relationship to the current average yield on outstanding marketable obligations of municipalities of comparable maturity.

(c) Fees for application investigation and issuance of committment guarantee

The Administrator is authorized to charge reasonable fees for the investigation of an application for a guarantee and for the issuance of a commitment to make a guarantee.

(d) Committment for repayment

The Administrator, in determining whether there is a reasonable assurance of repayment, may require a commitment which would apply to such repayment. Such commitment may include, but not be limited to, (1) all or any portion of the funds retained by such grantee under section 1284(b)(3) of this title, and (2) any funds received by such grantee from the amounts appropriated under section 1286 of this title.

(Pub. L. 94-558, Oct. 19, 1976, 90 Stat. 2639.)

§ 1293a. Contained spoil disposal facilities

(a) Construction, operation, and maintenance; period; conditions; requirements

The Secretary of the Army, acting through the Chief of Engineers, is authorized to construct, operate, and maintain, subject to the provisions of subsection (c) of this section, contained spoil disposal facilities of sufficient capacity for a period not to exceed ten years, to meet the requirements of this section. Before establishing each such facility, the Secretary of the Army shall obtain the concurrence of appropriate local governments and shall consider the views and recommendations of the Administrator of the Environmental Protection Agency and shall comply with requirements of section 1171 of this title, and of the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.]. Section 401 of this title shall not apply to any facility authorized by this section.

(b) Time for establishment; consideration of area needs; requirements

The Secretary of the Army, acting through the Chief of Engineers, shall establish the contained spoil disposal facilities authorized in subsection (a) of this section at the earliest practicable date, taking into consideration the views and recommendations of the Administrator of the Environmental Protection Agency as to those areas which, in the Administrator's judgment, are most urgently in need of such facilities and pursuant to the requirements of the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.] and the Federal Water Pollution Control Act [33 U.S.C. 1251 et seq.].

(c) Written agreement requirement; terms of agreement

Prior to construction of any such facility, the appropriate State or States, interstate agency, municipality, or other appropriate political subdivision of the State shall agree in writing to (1) furnish all lands, easements, and rights-of-way necessary for the construction, operation, and maintenance of the facility; (2) contribute to the United States 25 per centum of the construction costs, such amount to be payable either in cash prior to construction, in installments during construction, or in installments, with interest at a rate to be determined by the Secretary of the Treasury, as of the beginning of the fiscal year in which construction is initiated, on the basis of the computed average interest rate payable by the Treasury upon its outstanding marketable public obligations, which are neither due or callable for redemption for fifteen years from date of issue; (3) hold and save the United States free from damages due to construction, operation, and maintenance of the facility; and (4) except as provided in subsection (f) of this section, maintain the facility after completion of its use for disposal purposes in a manner satisfactory to the Secretary of the Army.

(d) Waiver of constrution costs contribution from non-Federal interests; findings of participation in waste treatment facilities for general geographical area and compliance with water quality standards; waiver of payments in event of written agreement before occurrence of findings

The requirement for appropriate non-Federal interest or interests to furnish an agreement to contribute 25 per centum of the construction costs as set forth in subsection (c) of this section shall be waived by the Secretary of the Army upon a finding by the Administrator of the Environmental Protection Agency that for the area to which such construction applies, the State or States involved, interstate agency, municipality, and other appropriate political subdivision of the State and industrial concerns are participating in and in compliance with an approved plan for the general geographical area of the dredging activity for construction, modification, expansion, or rehabilitation of waste treatment facilities and the Administrator has found that applicable water quality standards are not being violated. In the event such findings occur after the appropriate non-

Federal interest or interests have entered into the agreement required by subsection (c) of this section, any payments due after the date of such findings as part of the required local contribution of 25 per centum of the construction costs shall be waived by the Secretary of the Army.

(e) Federal payment of costs for disposal of dredged spoil from project

Notwithstanding any other provision of law, all costs of disposal of dredged spoil from the project for the Great Lakes connecting channels, Michigan, shall be borne by the United States.

(f) Title to lands; easements, and rights-of-way; retention by non-Federal interests; conveyance of facilities; agreement of transferee

The participating non-Federal interest or interests shall retain title to all lands, easements, and rights-of-way furnished by it pursuant to subsection (c) of this section. A spoil disposal facility owned by a non-Federal interest or interests may be conveyed to another party only after completion of the facility's use for disposal purposes and after the transferee agrees in writing to use or maintain the facility in a manner which the Secretary of the Army determines to be satisfactory.

(g) Federal licenses or permits; charges; remission of charge

Any spoil disposal facilities constructed under the provisions of this section shall be made available to Federal licensees or permittees upon payment of an appropriate charge for such use. Twenty-five per centum of such charge shall be remitted to the participating non-Federal interest or interests except for those excused from contributing to the construction costs under subsections (d) and (e) of this section.

(h) Provisions applicable to Great Lakes and their connecting channels

This section, other than subsection (i), shall be applicable only to the Great Lakes and their connecting channels.

(i) Research, study, and experimentation program relating to dredged spoil extended to navigable waters, etc.; cooperative program; scope of program; utilization of facilities and personnel of Federal agency

The Chief of Engineers, under the direction of the Secretary of the Army, is hereby authorized to extend to all navigable waters, connecting channels, tributary streams, other waters of the United States and waters contiguous to the United States, a comprehensive program of research, study, and experimentation relating to dredged spoil. This program shall be carried out in cooperation with other Federal and State agencies, and shall include, but not be limited to, investigations on the characteristics of dredged spoil, and alternative methods of its disposal. To the extent that such study shall include the effects of such dredge spoil on water quality, the facilities and personnel of the Environmental Protection Agency shall be utilized.

(Pub. L. 91-611, title I, § 123, Dec. 31, 1970, 84 Stat. 1823; Pub. L. 93-251, title I, § 23, Mar. 7, 1974, 88 Stat. 20.)

REFERENCES IN TEXT

Section 1171 of this title, referred to in subsec. (a), was omitted from the Code as superseded.

The National Environmental Policy Act of 1969, referred to in subsecs. (a) and (b), is Pub. L. 91-190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§ 4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables volume.

The Federal Water Pollution Control Act, referred to in subsec. (b), is act June 30, 1948, ch. 758, as amended generally by Pub. L. 92-500, § 2, Oct. 18, 1972, 86 Stat. 816, which is classified generally to chapter 26 (§ 1251 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1251 of this title and Tables volume.

CODIFICATION

Section was formerly classified to section 1165a of this title.

Section was not enacted as a part of the Federal Water Pollution Control Act which comprises this chapter.

AMENDMENTS

1974—Subsec. (d). Pub. L. 93-251 added provision for waiver of payments in event of a written agreement before occurrence of findings.

SUBCHAPTER III—STANDARDS AND ENFORCEMENT

§ 1311. Effluent limitations

(a) Illegality of pollutant discharges except in compliance with law

Except as in compliance with this section and sections 1312, 1316, 1317, 1328, 1342, and 1344 of this title, the discharge of any pollutant by any person shall be unlawful.

(b) Timetable for achievement of objectives

In order to carry out the objective of this chapter there shall be achieved—

(1)(A) not later than July 1, 1977, effluent limitations for point sources, other than publicly owned treatment works, (i) which shall require the application of the best practicable control technology currently available as defined by the Administrator pursuant to section 1314(b) of this title, or (ii) in the case of a discharge into a publicly owned treatment works which meets the requirements of subparagraph (B) of this paragraph, which shall require compliance with any applicable pretreatment requirements and any requirements under section 1317 of this title; and

(B) for publicly owned treatment works in existence on July 1, 1977, or approved pursuant to section 1283 of this title prior to June 30, 1974 (for which construction must be completed within four years of approval), effluent limitations based upon secondary treatment as defined by the Administrator pursuant to section 1314(d)(1) of this title; or,

(C) not later than July 1, 1977, any more stringent limitation, including those necessary to meet water quality standards, treatment standards, or schedules of compliance, established pursuant to any State law or regulations (under authority preserved by section 1370 of this title) or any other Federal law or regulation, or required to implement any applicable water quality standard established pursuant to this chapter.

(2)(A) not later than July 1, 1983, effluent limitations for categories and classes of point sources, other than publicly owned treatment works, which (i) shall require application of the best available technology economically achievable for such category or class, which will result in reasonable further progress toward the national goal of eliminating the discharge of all pollutants, as determined in accordance with regulations issued by the Administrator pursuant to section 1314(b)(2) of this title, which such effluent limitations shall require the elimination of discharges of all pollutants if the Administrator finds, on the basis of information available to him (including information developed pursuant to section 1325 of this title), that such elimination is technologically and economically achievable for a category or class of point sources as determined in accordance with regulations issued by the Administrator pursuant to section 1314(b)(2) of this title, or (ii) in the case of the introduction of a pollutant into a publicly owned treatment works which meets the requirements of subparagraph (B) of this paragraph, shall require compliance with any applicable pretreatment requirements and any other requirement under section 1317 of this title; and

(B) not later than July 1, 1983, compliance by all publicly owned treatment works with the requirements set forth in section 1281(g)(2)(A) of this title.

(c) Modification of timetable

The Administrator may modify the requirements of subsection (b)(2)(A) of this section with respect to any point source for which a permit application is filed after July 1, 1977, upon a showing by the owner or operator of such point source satisfactory to the Administrator that such modified requirements (1) will represent the maximum use of technology within the economic capability of the owner or operator; and (2) will result in reasonable further progress toward the elimination of the discharge of pollutants.

(d) Review and revision of effluent limitations

Any effluent limitation required by paragraph (2) of subsection (b) of this section shall be reviewed at least every five years and, if appropriate, revised pursuant to the procedure established under such paragraph.

(e) All point discharge source application of effluent limitations

Effluent limitations established pursuant to this section or section 1312 of this title shall be applied to all point sources of discharge of pollutants in accordance with the provisions of this chapter.

(f) Illegality of discharge of radiological, chemical, or biological warfare agents or high-level radioactive waste

Notwithstanding any other provisions of this chapter it shall be unlawful to discharge any radiological, chemical, or biological warfare agent or high-level radioactive waste into the navigable waters.

(June 30, 1948, ch. 758, title III, § 301, as added Oct. 18, 1972, Pub. L. 92-500, § 2, 86 Stat. 844.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1255, 1292, 1312, 1313, 1314, 1319, 1325, 1326, 1341, 1342, 1365, 1367, 1369 of this title.

§ 1312. Water quality related effluent limitations

(a) Establishment

Whenever, in the judgment of the Administrator, discharges of pollutants from a point source or group of point sources, with the application of effluent limitations required under section 1311(b)(2) of this title, would interfere with the attainment or maintenance of that water quality in a specific portion of the navigable waters which shall assure protection of public water supplies, agricultural and industrial uses, and the protection and propagation of a balanced population of shellfish, fish and wildlife, and allow recreational activities in and on the water, effluent limitations (including alternative effluent control strategies) for such point source or sources shall be established which can reasonably be expected to contribute to the attainment or maintenance of such water quality.

(b) Notice; hearing; adjustment of limitation by Administrator

(1) Prior to establishment of any effluent limitation pursuant to subsection (a) of this section, the Administrator shall issue notice of intent to establish such limitation and within ninety days of such notice hold a public hearing to determine the relationship of the economic and social costs of achieving any such limitation or limitations, including any economic or social dislocation in the affected community or communities, to the social and economic benefits to be obtained (including the attainment of the objective of this chapter) and to determine whether or not such effluent limitations can be implemented with available technology or other alternative control strategies.

(2) If a person affected by such limitation demonstrates at such hearing that (whether or not such technology or other alternative control strategies are available) there is no reasonable relationship between the economic and social costs and the benefits to be obtained (including attainment of the objective of this chapter), such limitation shall not become effective and the Administrator shall adjust such limitation as it applies to such person.

(c) Delay in application of other limitations

The establishment of effluent limitations under this section shall not operate to delay the application of any effluent limitation established under section 1311 of this title.

(June 30, 1948, ch. 758, title III, § 302, as added Oct. 18, 1972, Pub. L. 92-500, § 2, 86 Stat. 846.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1292, 1311, 1313, 1319, 1341, 1342, 1365, 1367, 1369 of this title.

§ 1313. Water quality standards and implementation plans

(a) Existing water quality standards

(1) In order to carry out the purpose of this chapter, any water quality standard applicable to interstate waters which was adopted by any

State and submitted to, and approved by, or is awaiting approval by, the Administrator pursuant to this Act as in effect immediately prior to October 18, 1972, shall remain in effect unless the Administrator determined that such standard is not consistent with the applicable requirements of this Act as in effect immediately prior to October 18, 1972. If the Administrator makes such a determination he shall, within three months after October 18, 1972, notify the State and specify the changes needed to meet such requirements. If such changes are not adopted by the State within ninety days after the date of such notification, the Administrator shall promulgate such changes in accordance with subsection (b) of this section.

(2) Any State which, before October 18, 1972, has adopted, pursuant to its own law, water quality standards applicable to intrastate waters shall submit such standards to the Administrator within thirty days after October 18, 1972. Each such standard shall remain in effect, in the same manner and to the same extent as any other water quality standard established under this chapter unless the Administrator determines that such standard is inconsistent with the applicable requirements of this Act as in effect immediately prior to October 18, 1972. If the Administrator makes such a determination he shall not later than the one hundred and twentieth day after the date of submission of such standards, notify the State and specify the changes needed to meet such requirements. If such changes are not adopted by the State within ninety days after such notification, the Administrator shall promulgate such changes in accordance with subsection (b) of this section.

(3)(A) Any State which prior to October 18, 1972, has not adopted pursuant to its own laws water quality standards applicable to intrastate waters shall, not later than one hundred and eighty days after October 18, 1972, adopt and submit such standards to the Administrator.

(B) If the Administrator determines that any such standards are consistent with the applicable requirements of this Act as in effect immediately prior to October 18, 1972, he shall approve such standards.

(C) If the Administrator determines that any such standards are not consistent with the applicable requirements of this Act as in effect immediately prior to October 18, 1972, he shall, not later than the ninetieth day after the date of submission of such standards, notify the State and specify the changes to meet such requirements. If such changes are not adopted by the State within ninety days after the date of notification, the Administrator shall promulgate such standards pursuant to subsection (b) of this section.

(b) Proposed regulations

(1) The Administrator shall promptly prepare and publish proposed regulations setting forth water quality standards for a State in accordance with the applicable requirements of this Act as in effect immediately prior to October 18, 1972, if—

(A) the State fails to submit water quality standards within the times prescribed in subsection (a) of this section.

(B) a water quality standard submitted by such State under subsection (a) of this section is determined by the Administrator not to be consistent with the applicable requirements of subsection (a) of this section.

(2) The Administrator shall promulgate any water quality standard published in a proposed regulation not later than one hundred and ninety days after the date he publishes any such proposed standard, unless prior to such promulgation, such State has adopted a water quality standard which the Administrator determines to be in accordance with subsection (a) of this section.

(c) Review; revised standards; publication

(1) The Governor of a State or the State water pollution control agency of such State shall from time to time (but at least once each three year period beginning with October 18, 1972) hold public hearings for the purpose of reviewing applicable water quality standards and, as appropriate, modifying and adopting standards. Results of such review shall be made available to the Administrator.

(2) Whenever the State revises or adopts a new standard, such revised or new standard shall be submitted to the Administrator. Such revised or new water quality standard shall consist of the designated uses of the navigable waters involved and the water quality criteria for such waters based upon such uses. Such standards shall be such as to protect the public health or welfare, enhance the quality of water and serve the purposes of this chapter. Such standards shall be established taking into consideration their use and value for public water supplies, propagation of fish and wildlife, recreational purposes, and agricultural, industrial, and other purposes, and also taking into consideration their use and value for navigation.

(3) If the Administrator, within sixty days after the date of submission of the revised or new standard, determines that such standard meets the requirements of this chapter, such standard shall thereafter be the water quality standard for the applicable waters of that State. If the Administrator determines that any such revised or new standard is not consistent with the applicable requirements of this chapter, he shall not later than the ninetieth day after the date of submission of such standard notify the State and specify the changes to meet such requirements. If such changes are not adopted by the State within ninety days after the date of notification, the Administrator shall promulgate such standard pursuant to paragraph (4) of this subsection.

(4) The Administrator shall promptly prepare and publish proposed regulations setting forth a revised or new water quality standard for the navigable waters involved—

(A) if a revised or new water quality standard submitted by such State under paragraph (3) of this subsection for such waters is determined by the Administrator not to be consistent with the applicable requirements of this chapter, or

(B) in any case where the Administrator determines that a revised or new standard is necessary to meet the requirements of this chapter.

The Administrator shall promulgate any revised or new standard under this paragraph not later than ninety days after he publishes such proposed standards, unless prior to such promulgation, such State has adopted a revised or new water quality standard which the Administrator determines to be in accordance with this chapter.

(d) Identification of areas with insufficient controls; maximum daily load

(1)(A) Each State shall identify those waters within its boundaries for which the effluent limitations required by section 1311(b)(1)(A) and section 1311(b)(1)(B) of this title are not stringent enough to implement any water quality standard applicable to such waters. The State shall establish a priority ranking for such waters, taking into account the severity of the pollution and the uses to be made of such waters.

(B) Each State shall identify those waters or parts thereof within its boundaries for which controls on thermal discharges under section 1311 of this title are not stringent enough to assure protection and propagation of a balanced indigenous population of shellfish, fish, and wildlife.

(C) Each State shall establish for the waters identified in paragraph (1)(A) of this subsection, and in accordance with the priority ranking, the total maximum daily load, for those pollutants which the Administrator identifies under section 1314(a)(2) of this title as suitable for such calculation. Such load shall be established at a level necessary to implement the applicable water quality standards with seasonal variations and a margin of safety which takes into account any lack of knowledge concerning the relationship between effluent limitations and water quality.

(D) Each State shall estimate for the waters identified in paragraph (1)(B) of this subsection the total maximum daily thermal load required to assure protection and propagation of a balanced, indigenous population of shellfish, fish, and wildlife. Such estimates shall take into account the normal water temperatures, flow rates, seasonal variations, existing sources of heat input, and the dissipative capacity of the identified waters or parts thereof. Such estimates shall include a calculation of the maximum heat input that can be made into each such part and shall include a margin of safety which takes into account any lack of knowledge concerning the development of thermal water quality criteria for such protection and propagation in the identified waters or parts thereof.

(2) Each State shall submit to the Administrator from time to time, with the first such submission not later than one hundred and eighty days after the date of publication of the first identification of pollutants under section 1314(a)(2)(D) of this title, for his approval the waters identified and the loads established under paragraphs (1)(A), (1)(B), (1)(C), and (1)(D) of this subsection. The Administrator shall either approve or disapprove such identification and load not later than thirty days after the date of submission. If the Administrator approves such identification and load, such State shall incorporate them into its current plan under subsection (e) of this section. If the Administrator disapproves such identification and load, he shall not later than thirty days after the date of such disapproval identify such waters in such State and establish such loads for such waters as he determines necessary to implement the water quality standards applicable to such waters and upon such identification and establishment the State shall incorporate them into its current plan under subsection (e) of this section.

(3) For the specific purpose of developing information, each State shall identify all waters within its boundaries which it has not identified under paragraph (1)(A) and (1)(B) of this subsection and estimate for such waters the total maximum daily load with seasonal variations and margins of safety, for those pollutants which the Administrator identifies under section 1314(a)(2) of this title as suitable for such calculation and for thermal discharges, at a level that would assure protection and propagation of a balanced indigenous population of fish, shellfish, and wildlife.

(e) Continuing planning process

(1) Each State shall have a continuing planning process approved under paragraph (2) of this subsection which is consistent with this chapter.

(2) Each State shall submit not later than 120 days after October 18, 1972, to the Administrator for his approval a proposed continuing planning process which is consistent with this chapter. Not later than thirty days after the date of submission of such a process the Administrator shall either approve or disapprove such process. The Administrator shall from time to time review each State's approved planning process for the purpose of insuring that such planning process is at all times consistent with this chapter. The Administrator shall not approve any State permit program under subchapter IV of this chapter for any State which does not have an approved continuing planning process under this section.

(3) The Administrator shall approve any continuing planning process submitted to him under this section which will result in plans for all navigable waters within such State, which include, but are not limited to, the following:

(A) effluent limitations and schedules of compliance at least as stringent as those required by section 1311(b)(1), section 1311(b)(2), section 1316, and section 1317 of this title, and at least as stringent as any requirements contained in any applicable water quality standard in effect under authority of this section;

(B) the incorporation of all elements of any applicable area-wide waste management plans under section 1288 of this title, and applicable basin plans under section 1289 of this title;

(C) total maximum daily load for pollutants in accordance with subsection (d) of this section;

(D) procedures for revision;

(E) adequate authority for intergovernmental cooperation;

(F) adequate implementation, including schedules of compliance, for revised or new water quality standards, under subsection (c) of this section;

(G) controls over the disposition of all residual waste from any water treatment processing;

(H) an inventory and ranking, in order of priority, of needs for construction of waste treatment works required to meet the applicable requirements of sections 1311 and 1312 of this title.

(f) Earlier compliance

Nothing in this section shall be construed to affect any effluent limitation, or schedule of compliance required by any State to be implemented prior to the dates set forth in sections 1311(b)(1) and 1311(b)(2) of this title nor to preclude any State from requiring compliance with any effluent limitation or schedule of compliance at dates earlier than such dates.

(g) Heat standards

Water quality standards relating to heat shall be consistent with the requirements of section 1326 of this title.

(h) Thermal water quality standards

For the purposes of this chapter the term "water quality standards" includes thermal water quality standards.

(June 30, 1948, ch. 758, title III, § 303, as added Oct. 18, 1972, Pub. L. 92-500, § 2, 86 Stat. 846.)

REFERENCES IN TEXT

This Act, referred to in subsecs. (a)(1), (2), (3)(B), (C), (b)(1), means act June 30, 1948, ch. 758, 62 Stat. 1155, prior to the supersedure and reenactment of act June 30, 1948 by act Oct. 18, 1972, Pub. L. 92-500, 86 Stat. 816. Act June 30, 1948, ch. 758, as added by act Oct. 18, 1972, Pub. L. 92-500, 86 Stat. 816, enacted this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1252, 1284, 1288, 1314, 1326, 1375 of this title; title 43 section 615aaa.

§ 1314. Information and guidelines

(a) Criteria development and publication

(1) The Administrator, after consultation with appropriate Federal and State agencies and other interested persons, shall develop and publish, within one year after October 18, 1972 (and from time to time thereafter revise) criteria for water quality accurately reflecting the latest scientific knowledge (A) on the kind and extent of all identifiable effects on health and welfare including, but not limited to, plankton, fish, shellfish, wildlife, plant life, shorelines, beaches, esthetics, and recreation which may be expected from the presence of pollutants in any body of water, including ground water; (B) on the concentration and dispersal of pollutants, or their byproducts, through biological, physical, and chemical processes; and (C) on the effects of pollutants on biological community diversity, productivity, and stability, including information on the factors affecting rates of eutrophication and rates of organic and inorganic sedimentation for varying types of receiving waters.

(2) The Administrator, after consultation with appropriate Federal and State agencies and other interested persons, shall develop and publish, within one year after October 18, 1972 (and from time to time thereafter revise) information (A) on the factors necessary to restore and maintain the chemical, physical, and biological integrity of all navigable waters, ground waters, waters of the contiguous zone, and the oceans; (B) on the factors necessary for the protection and propagation of shellfish, fish, and wildlife for classes and categories of receiving waters and to allow recreational activities in and on the water; and (C) on the measurement and classification of water quality; and (D) for the purpose of section 1313 of this title, on and the identification of pollutants suitable for maximum daily load measurement correlated with the achievement of water quality objectives.

(3) Such criteria and information and revisions thereof shall be issued to the States and shall be published in the Federal Register and otherwise made available to the public.

(b) Effluent limitation guidelines

For the purpose of adopting or revising effluent limitations under this chapter the Administrator shall, after consultation with appropriate Federal and State agencies and other interested persons, publish within one year of October 18, 1972, regulations, providing guidelines for effluent limitations, and, at least annually thereafter, revise, if appropriate, such regulations. Such regulations shall—

(1)(A) identify, in terms of amounts of constituents and chemical, physical, and biological characteristics of pollutants, the degree of effluent reduction attainable through the application of the best practicable control technology currently available for classes and categories of point sources (other than publicly owned treatment works); and

(B) specify factors to be taken into account in determining the control measures and practices to be applicable to point sources (other than publicly owned treatment works) within such categories or classes. Factors relating to the assessment of best practicable control technology currently available to comply with subsection (b)(1) of section 1311 of this title shall include consideration of the total cost of application of technology in relation to the effluent reduction benefits to be achieved from such application, and shall also take into account the age of equipment and facilities involved, the process employed, the engineering aspects of the application of various types of control techniques, process changes, non-water quality environmental impact (including energy requirements), and such other factors as the Administrator deems appropriate;

(2)(A) identify, in terms of amounts of constituents and chemical, physical, and biological characteristics of pollutants, the degree of effluent reduction attainable through the application of the best control measures and practices achievable including treatment techniques, process and procedure innovations, operating methods, and other alternatives for classes and categories of point sources (other than publicly owned treatment works); and

(B) specify factors to be taken into account in determining the best measures and practices available to comply with subsection (b)(2) of section 1311 of this title to be appli-

cable to any point source (other than publicly owned treatment works) within such categories or classes. Factors relating to the assessment of best available technology shall take into account the age of equipment and facilities involved, the process employed, the engineering aspects of the application of various types of control techniques, process changes, the cost of achieving such effluent reduction, non-water quality environmental impact (including energy requirements), and such other factors as the Administrator deems appropriate; and

(3) identify control measures and practices available to eliminate the discharge of pollutants from categories and classes of point sources, taking into account the cost of achieving such elimination of the discharge of pollutants.

(c) Pollution discharge elimination procedures

The Administrator, after consultation, with appropriate Federal and State agencies and other interested persons, shall issue to the States and appropriate water pollution control agencies within 270 days after October 18, 1972 (and from time to time thereafter) information on the processes, procedures, or operating methods which result in the elimination or reduction of the discharge of pollutants to implement standards of performance under section 1316 of this title. Such information shall include technical and other data, including costs, as are available on alternative methods of elimination or reduction of the discharge of pollutants. Such information, and revisions thereof, shall be published in the Federal Register and otherwise shall be made available to the public.

(d) Secondary treatment information; alternative waste treatment management techniques and systems

(1) The Administrator, after consultation with appropriate Federal and State agencies and other interested persons, shall publish within sixty days after October 18, 1972 (and from time to time thereafter) information, in terms of amounts of constituents and chemical, physical, and biological characteristics of pollutants, on the degree of effluent reduction attainable through the application of secondary treatment.

(2) The Administrator, after consultation with appropriate Federal and State agencies and other interested persons, shall publish within nine months after October 18, 1972 (and from time to time thereafter) information on alternative waste treatment management techniques and systems available to implement section 1281 of this title.

(e) Identification and evaluation of nonpoint sources of pollution; processes, procedures, and methods to control pollution

The Administrator, after consultation with appropriate Federal and State agencies and other interested persons, shall issue to appropriate Federal agencies, the States, water pollution control agencies, and agencies designated under section 1288 of this title, within one year after October 18, 1972 (and from time to time thereafter) information including (1) guidelines for identifying and evaluating the nature and extent of nonpoint sources of pollutants, and (2) processes, procedures, and methods to control pollution resulting from—

(A) agricultural and silvicultural activities, including runoff from fields and crop and forest lands;

(B) mining activities, including runoff and siltation from new, currently operating, and abandoned surface and underground mines;

(C) all construction activity, including runoff from the facilities resulting from such construction;

(D) the disposal of pollutants in wells or in subsurface excavations;

(E) salt water intrusion resulting from reductions of fresh water flow from any cause, including extraction of ground water, irrigation, obstruction, and diversion; and

(F) changes in the movement, flow, or circulation of any navigable waters or ground waters, including changes caused by the construction of dams, levees, channels, causeways, or flow diversion facilities.

Such information and revisions thereof shall be published in the Federal Register and otherwise made available to the public.

(f) Guidelines for pretreatment of pollutants

(1) For the purpose of assisting States in carrying out programs under section 1342 of this title, the Administrator shall publish, within one hundred and twenty days after October 18, 1972, and review at least annually thereafter and, if appropriate, revise guidelines for pretreatment of pollutants which he determines are not susceptible to treatment by publicly owned treatment works. Guidelines under this subsection shall be established to control and prevent the discharge into the navigable waters, the contiguous zone, or the ocean (either directly or through publicly owned treatment works) of any pollutant which interferes with, passes through, or otherwise is incompatible with such works.

(2) When publishing guidelines under this subsection, the Administrator shall designate the category or categories of treatment works to which the guidelines shall apply.

(g) Test procedures guidelines

The Administrator shall, within one hundred and eighty days from October 18, 1972, promulgate guidelines establishing test procedures for the analysis of pollutants that shall include the factors which must be provided in any certification pursuant to section 1341 of this title or permit application pursuant to section 1342 of this title.

(h) Guidelines for monitoring, reporting, enforcement, funding, personnel, and manpower

The Administrator shall (1) within sixty days after October 18, 1972, promulgate guidelines for the purpose of establishing uniform application forms and other minimum requirements for the acquisition of information from owners and operators of point-sources of discharge subject to any State program under section 1342 of this title, and (2) within sixty days from October 18, 1972, promulgate guidelines establishing the minimum procedural and other elements of any State program under section 1342 of this title, which shall include:

(A) monitoring requirements;

(B) reporting requirements (including procedures to make information available to the public);

(C) enforcement provisions; and

(D) funding, personnel qualifications, and manpower requirements (including a requirement that no board or body which approves permit applications or portions thereof shall include, as a member, any person who receives, or has during the previous two years received, a significant portion of his income directly or indirectly from permit holders or applicants for a permit).

(i) Restoration and enhancement of publicly owned fresh water lakes

The Administrator shall, within 270 days after October 18, 1972 (and from time to time thereafter), issue such information on methods, procedures, and processes as may be appropriate to restore and enhance the quality of the Nation's publicly owned fresh water lakes.

(j) Agreements with Secretaries of Agriculture, Army, and Interior to provide maximum utilization of programs to achieve and maintain water quality; transfer of funds; authorization of appropriations

(1) The Administrator shall, within six months from October 18, 1972, enter into agreements with the Secretary of Agriculture, the Secretary of the Army, and the Secretary of the Interior to provide for the maximum utilization of the appropriate programs authorized under other Federal law to be carried out by such Secretaries for the purpose of achieving and maintaining water quality through appropriate implementation of plans approved under section 1288 of this title.

(2) The Administrator, pursuant to any agreement under paragraph (1) of this subsection is authorized to transfer to the Secretary of Agriculture, the Secretary of the Army, or the Secretary of the Interior any funds appropriated under paragraph (3) of this subsection to supplement any funds otherwise appropriated to carry out appropriate programs authorized to be carried out by such Secretaries.

(3) There is authorized to be appropriated to carry out the provisions of this subsection, $100,000,000 per fiscal year for the fiscal year ending June 30, 1973, and the fiscal year ending June 30, 1974.

(June 30, 1948, ch. 758, title III, § 304, as added Oct. 18, 1972, Pub. L. 92-500, § 2, 86 Stat. 850.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1255, 1311, 1313, 1315, 1342, 1369, 1374, 1376 of this title.

§ 1315. State reports on water quality; transmittal to Congress

(a) Omitted.

(b)(1) Each State shall prepare and submit to the Administrator by January 1, 1975, and shall bring up to date each year thereafter, a report which shall include—

(A) a description of the water quality of all navigable waters in such State during the preceding year, with appropriate supplemental descriptions as shall be required to take into account seasonal, tidal, and other variations, correlated with the quality of water required by the objective of this chapter (as identified by the Administrator pursuant to criteria published under section 1314(a) of this title) and the water quality described in subparagraph (B) of this paragraph;

(B) an analysis of the extent to which all navigable waters of such State provide for the protection and propagation of a balanced population of shellfish, fish, and wildlife, and allow recreational activities in and on the water;

(C) an analysis of the extent to which the elimination of the discharge of pollutants and a level of water quality which provides for the protection and propagation of a balanced population of shellfish, fish, and wildlife and allows recreational activities in and on the water, have been or will be achieved by the requirements of this chapter, together with recommendations as to additional action necessary to achieve such objectives and for what waters such additional action is necessary;

(D) an estimate of (i) the environmental impact, (ii) the economic and social costs necessary to achieve the objective of this chapter in such State, (iii) the economic and social benefits of such achievement, and (iv) an estimate of the date of such achievement; and

(E) a description of the nature and extent of nonpoint sources of pollutants, and recommendations as to the programs which must be undertaken to control each category of such sources, including an estimate of the costs of implementing such programs.

(2) The Administrator shall transmit such State reports, together with an analysis thereof, to Congress on or before October 1, 1975, and annually thereafter.

(June 30, 1948, ch. 758, title III, § 305, as added Oct. 18, 1972, Pub. L. 92-500, § 2, 86 Stat. 853.)

CODIFICATION

Subsec. (a), which authorized the Administrator, in cooperation with the States and Federal agencies, to prepare a report describing the specific quality, during 1973, of all navigable waters and waters of the contiguous zone, including an inventory of all point sources of discharge of pollutants into these waters, and identifying those navigable waters capable of supporting fish and wildlife populations and allowing recreational activities, those which could reasonably be expected to attain this level by 1977 or 1983, and those which could attain this level sooner, and submit this report to Congress on or before Jan. 1, 1974, was omitted from the Code as executed.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1256, 1318, 1369 of this title.

§ 1316. National standards of performance

(a) Definitions

For purposes of this section:

(1) The term "standard of performance" means a standard for the control of the discharge of pollutants which reflect the greatest degree of effluent reduction which the Administrator determines to be achievable through application of the best available demonstrated control technology, processes, operating methods, or other alternatives, including, where

practicable, a standard permitting no discharge of pollutants.

(2) The term "new source" means any source, the construction of which is commenced after the publication of proposed regulations prescribing a standard of performance under this section which will be applicable to such source, if such standard is thereafter promulgated in accordance with this section.

(3) The term "source" means any building, structure, facility, or installation from which there is or may be the discharge of pollutants.

(4) The term "owner or operator" means any person who owns, leases, operates, controls, or supervises a source.

(5) The term "construction" means any placement, assembly, or installation of facilities or equipment (including contractual obligations to purchase such facilities or equipment) at the premises where such equipment will be used, including preparation work at such premises.

(b) Categories of sources; Federal standards of performance for new sources

(1)(A) The Administrator shall, within ninety days after October 18, 1972, publish (and from time to time thereafter shall revise) a list of categories of sources, which shall, at the minimum, include:

pulp and paper mills;
paperboard, builders paper and board mills;
meat product and rendering processing;
dairy product processing;
grain mills;
canned and preserved fruits and vegetables processing;
canned and preserved seafood processing;
sugar processing;
textile mills;
cement manufacturing;
feedlots;
electroplating;
organic chemicals manufacturing;
inorganic chemicals manufacturing;
plastic and synthetic materials manufacturing;
soap and detergent manufacturing;
fertilizer manufacturing;
petroleum refining;
iron and steel manufacturing;
nonferrous metals manufacturing;
phosphate manufacturing;
steam electric powerplants;
ferroalloy manufacturing;
leather tanning and finishing;
glass and asbestos manufacturing;
rubber processing; and
timber products processing.

(B) As soon as practicable, but in no case more than one year, after a category of sources is included in a list under subparagraph (A) of this paragraph, the Administrator shall propose and publish regulations establishing Federal standards of performance for new sources within such category. The Administrator shall afford interested persons an opportunity for written comment on such proposed regulations. After considering such comments, he shall promulgate, within one hundred and twenty days after publication of such proposed regulations, such standards with such adjustments as he deems appropriate. The Administrator shall, from time to time, as technology and alternatives change, revise such standards following the procedure required by this subsection for promulgation of such standards. Standards of performance, or revisions thereof, shall become effective upon promulgation. In establishing or revising Federal standards of performance for new sources under this section, the Administrator shall take into consideration the cost of achieving such effluent reduction, and any nonwater quality, environmental impact and energy requirements.

(2) The Administrator may distinguish among classes, types, and sizes within categories of new sources for the purpose of establishing such standards and shall consider the type of process employed (including whether batch or continuous).

(3) The provisions of this section shall apply to any new source owned or operated by the United States.

(c) State enforcement of standards of performance

Each State may develop and submit to the Administrator a procedure under State law for applying and enforcing standards of performance for new sources located in such State. If the Administrator finds that the procedure and the law of any State require the application and enforcement of standards of performance to at least the same extent as required by this section, such State is authorized to apply and enforce such standards of performance (except with respect to new sources owned or operated by the United States).

(d) Protection from more stringent standards

Notwithstanding any other provision of this chapter, any point source the construction of which is commenced after October 18, 1972, and which is so constructed as to meet all applicable standards of performance shall not be subject to any more stringent standard of performance during a ten-year period beginning on the date of completion of such construction or during the period of depreciation or amortization of such facility for the purposes of section 167 or 169 (or both) of title 26 whichever period ends first.

(e) Illegality of operation of new sources in violation of applicable standards of performance

After the effective date of standards of performance promulgated under this section, it shall be unlawful for any owner or operator of any new source to operate such source in violation of any standard of performance applicable to such source.

(June 30, 1948, ch. 758, title III, § 306, as added Oct. 18, 1972, Pub. L. 92-500, § 2, 86 Stat. 854.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1311, 1313, 1314, 1317, 1319, 1323, 1326, 1341, 1342, 1365, 1367, 1369, 1371, 1374 of this title.

§ 1317. Toxic and pretreatment effluent standards

(a) Toxic pollutant list; revision; hearing; promulgation of standards; effective date; consultation

(1) The Administrator shall, within ninety days after October 18, 1972, publish (and from time to time thereafter revise) a list which includes any toxic pollutant or combination of

such pollutants for which an effluent standard (which may include a prohibition of the discharge of such pollutants or combination of such pollutants) will be established under this section. The Administrator in publishing such list shall take into account the toxicity of the pollutant, its persistence, degradability, the usual or potential presence of the affected organisms in any waters, the importance of the affected organisms and the nature and extent of the effect of the toxic pollutant on such organisms.

(2) Within one hundred and eighty days after the date of publication of any list, or revision thereof, containing toxic pollutants or combination of pollutants under paragraph (1) of this subsection, the Administrator, in accordance with section 553 of title 5, shall publish a proposed effluent standard (or a prohibition) for such pollutant or combination of pollutants, which shall take into account the toxicity of the pollutant, its persistence, degradability, the usual or potential presence of the affected organisms in any waters, the importance of the affected organisms and the nature and extent of the effect of the toxic pollutant on such organisms, and he shall publish a notice for a public hearing on such proposed standard to be held within thirty days. As soon as possible after such hearing, but not later than six months after publication of the proposed effluent standard (or prohibition), unless the Administrator finds, on the record, that a modification of such proposed standard (or prohibition) is justified based upon a preponderance of evidence adduced at such hearings, such standard (or prohibition) shall be promulgated.

(3) If after a public hearing the Administrator finds that a modification of such proposed standard (or prohibition) is justified, a revised effluent standard (or prohibtiion) for such pollutant or combination of pollutants shall be promulgated immediately. Such standard (or prohibition) shall be reviewed and, if appropriate, revised at least every three years.

(4) Any effluent standard promulgated under this section shall be at that level which the Administrator determines provides an ample margin of safety.

(5) When proposing or promulgating any effluent standard (or prohibition) under this section, the Administrator shall designate the category or categories of sources to which the effluent standard (or prohibition) shall apply. Any disposal of dredged material may be included in such a category of sources after consultation with the Secretary of the Army.

(6) Any effluent standard (or prohibition) established pursuant to this section shall take effect on such date or dates as specified in the order promulgating such standard, but in no case more than one year from the date of such promulgation.

(7) Prior to publishing any regulations pursuant to this section the Administrator shall, to the maximum extent practicable within the time provided, consult with appropriate advisory committees, States, independent experts, and Federal departments and agencies.

(b) Pretreatment standards; hearing; promulgation; compliance period; revision; application to State and local laws

(1) The Administrator shall, within one hundred and eighty days after October 18, 1972, and from time to time thereafter, publish proposed regulations establishing pretreatment standards for introduction of pollutants into treatment works (as defined in section 1292 of this title) which are publicly owned for those pollutants which are determined not to be susceptible to treatment by such treatment works or which would interfere with the operation of such treatment works. Not later than ninety days after such publication, and after opportunity for public hearing, the Administrator shall promulgate such pretreatment standards. Pretreatment standards under this subsection shall specify a time for compliance not to exceed three years from the date of promulgation and shall be established to prevent the discharge of any pollutant through treatment works (as defined in section 1292 of this title) which are publicly owned, which pollutant interferes with, passes through, or otherwise is incompatible with such works.

(2) The Administrator shall, from time to time, as control technology, processes, operating methods, or other alternatives change, revise such standards following the procedure established by this subsection for promulgation of such standards.

(3) When proposing or promulgating any pretreatment standard under this section, the Administrator shall designate the category or categories of sources to which such standard shall apply.

(4) Nothing in this subsection shall affect any pretreatment requirement established by any State or local law not in conflict with any pretreatment standard established under this subsection.

(c) New sources of pollutants into publicly owned treatment works

In order to insure that any source introducing pollutants into a publicly owned treatment works, which source would be a new source subject to section 1316 of this title if it were to discharge pollutants, will not cause a violation of the effluent limitations established for any such treatment works, the Administrator shall promulgate pretreatment standards for the category of such sources simultaneously with the promulgation of standards of performance under section 1316 of this title for the equivalent category of new sources. Such pretreatment standards shall prevent the discharge of any pollutant into such treatment works, which pollutant may interfere with, pass through, or otherwise be incompatible with such works.

(d) Operation in violation of standards unlawful

After the effective date of any effluent standard or prohibition or pretreatment standard promulgated under this section, it shall be unlawful for any owner or operator of any source to operate any source in violation of any such effluent standard or prohibition or pretreatment standard.

(June 30, 1948, ch. 758, title III, § 307, as added Oct. 18, 1972, Pub. L. 92-500, § 2, 86 Stat. 856.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1311, 1313, 1319, 1323, 1341, 1342, 1365, 1367, 1369, 1374 of this title.

§ 1318. Records and reports; inspections

(a) Maintenance; monitoring equipment; entry; access to information

Whenever required to carry out the objective of this chapter, including but not limited to (1) developing or assisting in the development of any effluent limitation, or other limitation, prohibition, or effluent standard, pretreatment standard, or standard of performance under this chapter; (2) determining whether any person is in violation of any such effluent limitation, or other limitation, prohibition or effluent standard, pretreatment standard, or standard of performance; (3) any requirement established under this section; or (4) carrying out sections 1315, 1321, 1342, and 1364 of this title—

(A) the Administrator shall require the owner or operator of any point source to (i) establish and maintain such records, (ii) make such reports, (iii) install, use, and maintain such monitoring equipment or methods (including where appropriate, biological monitoring methods), (iv) sample such effluents (in accordance with such methods, at such locations, at such intervals, and in such manner as the Administrator shall prescribe), and (v) provide such other information as he may reasonably require; and

(B) the Administrator or his authorized representative, upon presentation of his credentials—

(i) shall have a right of entry to, upon, or through any premises in which an effluent source is located or in which any records required to be maintained under clause (A) of this subsection are located, and

(ii) may at reasonable times have access to and copy any records, inspect any monitoring equipment or method required under clause (A), and sample any effluents which the owner or operator of such source is required to sample under such clause.

(b) Availability to public; trade secrets exception

Any records, reports, or information obtained under this section (1) shall, in the case of effluent data, be related to any applicable effluent limitations, toxic, pretreatment, or new source performance standards, and (2) shall be available to the public, except that upon a showing satisfactory to the Administrator by any person that records, reports, or information, or particular part thereof (other than effluent data), to which the Administrator has access under this section, if made public would divulge methods or processes entitled to protection as trade secrets of such person, the Administrator shall consider such record, report, or information, or particular portion thereof confidential in accordance with the purposes of section 1905 of title 18, except that such record, report, or information may be disclosed to other officers, employees, or authorized representatives of the United States concerned with carrying out this chapter or when relevant in any proceeding under this chapter.

(c) Application of State law

Each State may develop and submit to the Administrator procedures under State law for inspection, monitoring, and entry with respect to point sources located in such State. If the Administrator finds that the procedures and the law of any State relating to inspection, monitoring, and entry are applicable to at least the same extent as those required by this section, such State is authorized to apply and enforce its procedures for inspection, monitoring, and entry with respect to point sources located in such State (except with respect to point sources owned or operated by the United States).

(June 30, 1948, ch. 758, title III, § 308, as added Oct. 18, 1972, Pub. L. 92-500, § 2, 86 Stat. 858.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1319, 1342 of this title.

§ 1319. Enforcement

(a) State enforcement; compliance orders

(1) Whenever, on the basis of any information available to him, the Administrator finds that any person is in violation of any condition or limitation which implements section 1311, 1312, 1316, 1317, or 1318 of this title in a permit issued by a State under an approved permit program under section 1342 of this title he shall proceed under his authority in paragraph (3) of this subsection or he shall notify the person in alleged violation and such State of such finding. If beyond the thirtieth day after the Administrator's notification the State has not commenced appropriate enforcement action, the Administrator shall issue an order requiring such person to comply with such condition or limitation or shall bring a civil action in accordance with subsection (b) of this section.

(2) Whenever, on the basis of information available to him, the Administrator finds that violations of permit conditions or limitations as set forth in paragraph (1) of this subsection are so widespread that such violations appear to result from a failure of the State to enforce such permit conditions or limitations effectively, he shall so notify the State. If the Administrator finds such failure extends beyond the thirtieth day after such notice, he shall give public notice of such finding. During the period beginning with such public notice and ending when such State satisfies the Administrator that it will enforce such conditions and limitations (hereafter referred to in this section as the period of "federally assumed enforcement"), the Administrator shall enforce any permit condition or limitation with respect to any person—

(A) by issuing an order to comply with such condition or limitation, or

(B) by bringing a civil action under subsection (b) of this section.

(3) Whenever on the basis of any information available to him the Administrator finds that any person is in violation of section 1311, 1312, 1316, 1317, or 1318 of this title, or is in violation of any permit condition or limitation implementing any of such sections in a permit issued

under section 1342 of this title by him or by a State, he shall issue an order requiring such person to comply with such section or requirement, or he shall bring a civil action in accordance with subsection (b) of this section.

(4) A copy of any order issued under this subsection shall be sent immediately by the Administrator to the State in which the violation occurs and other affected States. Any order issued under this subsection shall be by personal service and shall state with reasonable specificity the nature of the violation, specify a time for compliance, not to exceed thirty days, which the Administrator determines is reasonable, taking into account the seriousness of the violation and any good faith efforts to comply with applicable requirements. In any case in which an order under this subsection (or notice to a violator under paragraph (1) of this subsection) is issued to a corporation, a copy of such order (or notice) shall be served on any appropriate corporate officers. An order issued under this subsection relating to a violation of section 1318 of this title shall not take effect until the person to whom it is issued has had an opportunity to confer with the Administrator concerning the alleged violation.

(b) Civil actions

The Administrator is authorized to commence a civil action for appropriate relief, including a permanent or temporary injunction, for any violation for which he is authorized to issue a compliance order under subsection (a) of this section. Any action under this subsection may be brought in the district court of the United States for the district in which the defendant is located or resides or is doing business, and such court shall have jurisdiction to restrain such violation and to require compliance. Notice of the commencement of such action shall be given immediately to the appropriate State.

(c) Criminal penalties

(1) Any person who willfully or negligently violates section 1311, 1312, 1316, 1317, or 1318 of this title, or any permit condition or limitation implementing any of such sections in a permit issued under section 1342 of this title by the Administrator or by a State, shall be punished by a fine of not less than $2,500 nor more than $25,000 per day of violation, or by imprisonment for not more than one year, or by both. If the conviction is for a violation committed after a first conviction of such person under this paragraph, punishment shall be by a fine of not more than $50,000 per day of violation, or by imprisonment for not more than two years, or by both.

(2) Any person who knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this chapter or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this chapter, shall upon conviction, be punished by a fine of not more than $10,000, or by imprisonment for not more than six months, or by both.

(3) For the purposes of this subsection, the term "person" shall mean, in addition to the definition contained in section 1362(5) of this title, any responsible corporate officer.

(d) Civil penalties

Any person who violates section 1311, 1312, 1316, 1317, or 1318 of this title, or any permit condition or limitation implementing any of such sections in a permit issued under section 1342 of this title by the Administrator, or by a State, and any person who violates any order issued by the Administrator under subsection (a) of this section, shall be subject to a civil penalty not to exceed $10,000 per day of such violation.

(e) State liability for judgments and expenses

Whenever a municipality is a party to a civil action brought by the United States under this section, the State in which such municipality is located shall be joined as a party. Such State shall be liable for payment of any judgment, or any expenses incurred as a result of complying with any judgment, entered against the municipality in such action to the extent that the laws of that State prevent the municipality from raising revenues needed to comply with such judgment.

(June 30, 1948, ch. 758, title III, § 309, as added Oct. 18, 1972, Pub. L. 92-500, § 2, 86 Stat. 859.)

ACTIONS BY SURGEON GENERAL RELATING TO INTERSTATE POLLUTION

Act July 9, 1956, ch. 518, § 5, 70 Stat. 507, provided that actions by the Surgeon General with respect to water pollutants under section 2(d) of act June 30, 1948, ch. 758, 62 Stat. 1155, as in effect prior to July 9, 1956, which had been completed prior to such date, would still be subject to the terms of section 2(d) of act June 30, 1948, in effect prior to the July 9, 1956 amendment, but that actions with respect to such pollutants would nevertheless subsequently be possible in accordance with the terms of act June 30, 1948, as amended by act July 9, 1956.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1256, 1342, 1365, 1368 of this title.

§ 1320. International pollution abatement

(a) Hearing; participation by foreign nations

Whenever the Administrator, upon receipts of reports, surveys, or studies from any duly constituted international agency, has reason to believe that pollution is occurring which endangers the health or welfare of persons in a foreign country, and the Secretary of State requests him to abate such pollution, he shall give formal notification thereof to the State water pollution control agency of the State or States in which such discharge or discharges originate and to the appropriate interstate agency, if any. He shall also promptly call such a hearing, if he believes that such pollution is occurring in sufficient quantity to warrant such action, and if such foreign country has given the United States essentially the same rights with respect to the prevention and control of pollution occurring in that country as is given that country by this subsection. The Administrator, through the Secretary of State, shall invite the foreign country which may be adversely affected by the pollution to attend and participate in the hearing, and the representative of such country shall, for the purpose of

the hearing and any further proceeding resulting from such hearing, have all the rights of a State water pollution control agency. Nothing in this subsection shall be construed to modify, amend, repeal, or otherwise affect the provisions of the 1909 Boundary Waters Treaty between Canada and the United States or the Water Utilization Treaty of 1944 between Mexico and the United States (59 Stat. 1219), relative to the control and abatement of pollution in waters covered by those treaties.

(b) Functions and responsibilities of Administrator not affected

The calling of a hearing under this section shall not be construed by the courts, the Administrator, or any person as limiting, modifying, or otherwise affecting the functions and responsibilities of the Administrator under this section to establish and enforce water quality requirements under this chapter.

(c) Hearing board; composition; findings of fact; recommendations; implementation of board's decision

The Administrator shall publish in the Federal Register a notice of a public hearing before a hearing board of five or more persons appointed by the Administrator. A majority of the members of the board and the chairman who shall be designated by the Administrator shall not be officers or employees of Federal, State, or local governments. On the basis of the evidence presented at such hearing, the board shall within sixty days after completion of the hearing make findings of fact as to whether or not such pollution is occurring and shall thereupon by decision, incorporating its findings therein, make such recommendations to abate the pollution as may be appropriate and shall transmit such decision and the record of the hearings to the Administrator. All such decisions shall be public. Upon receipt of such decision, the Administrator shall promptly implement the board's decision in accordance with the provisions of this chapter.

(d) Report by alleged polluter

In connection with any hearing called under this subsection, the board is authorized to require any person whose alleged activities result in discharges causing or contributing to pollution to file with it in such forms as it may prescribe, a report based on existing data, furnishing such information as may reasonably be required as to the character, kind, and quantity of such discharges and the use of facilities or other means to prevent or reduce such discharges by the person filing such a report. Such report shall be made under oath or otherwise, as the board may prescribe, and shall be filed with the board within such reasonable period as it may prescribe, unless additional time is granted by it. Upon a showing satisfactory to the board by the person filing such report that such report or portion thereof (other than effluent data), to which the Administrator has access under this section, if made public would divulge trade secrets or secret processes of such person, the board shall consider such report or portion thereof confidential for the purposes of section 1905 of title 18. If any person required to file any report under this paragraph shall fail to do so within the time fixed by the board for filing the same, and such failure shall continue for thirty days after notice of such default, such person shall forfeit to the United States the sum of $1,000 for each and every day of the continuance of such failure, which forfeiture shall be payable into the Treasury of the United States, and shall be recoverable in a civil suit in the name of the United States in the district court of the United States where such person has his principal office or in any district in which he does business. The Administrator may upon application therefor remit or mitigate any forfeiture provided for under this subsection.

(e) Compensation of board members

Board members, other than officers or employees of Federal, State, or local governments, shall be for each day (including travel-time) during which they are performing board business, entitled to receive compensation at a rate fixed by the Administrator but not in excess of the maximum rate of pay for grade GS-18, as provided in the General Schedule under section 5332 of title 5, and shall, notwithstanding the limitations of sections 5703 and 5704 of title 5, be fully reimbursed for travel, subsistence and related expenses.

(f) Enforcement proceedings

When any such recommendation adopted by the Administrator involves the institution of enforcement proceedings against any person to obtain the abatement of pollution subject to such recommendation, the Administrator shall institute such proceedings if he believes that the evidence warrants such proceedings. The district court of the United States shall consider and determine de novo all relevant issues, but shall receive in evidence the record of the proceedings before the conference or hearing board. The court shall have jurisdiction to enter such judgment and orders enforcing such judgment as it deems appropriate or to remand such proceedings to the Administrator for such further action as it may direct.

(June 30, 1948, ch. 758, title III, § 310, as added Oct. 18, 1972, Pub. L. 92-500, § 2, 86 Stat. 860.)

§ 1321. Oil and hazardous substance liability

(a) Definitions

For the purpose of this section, the term—

(1) "oil" means oil of any kind or in any form, including, but not limited to, petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredged spoil;

(2) "discharge" includes, but is not limited to, any spilling, leaking, pumping, pouring, emitting, emptying or dumping;

(3) "vessel" means every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water other than a public vessel;

(4) "public vessel" means a vessel owned or bareboat-chartered and operated by the United States, or by a State or political subdivision thereof, or by a foreign nation, except when such vessel is engaged in commerce;

(5) "United States" means the States, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands;

(6) "owner or operator" means (A) in the case of a vessel, any person owning, operating, or chartering by demise, such vessel, and (B) in the case of an onshore facility, and an offshore facility, any person owning or operating such onshore facility or offshore facility, and (C) in the case of any abandoned offshore facility, the person who owned or operated such facility immediately prior to such abandonment;

(7) "person" includes an individual, firm, corporation, association, and a partnership.

(8) "remove" or "removal" refers to removal of the oil or hazardous substances from the water and shorelines or the taking of such other actions as may be necessary to minimize or mitigate damage to the public health or welfare, including, but not limited to, fish, shellfish, wildlife, and public and private property, shorelines, and beaches;

(9) "contiguous zone" means the entire zone established or to be established by the United States under article 24 of the Convention on the Territorial Sea and the Contiguous Zone;

(10) "onshore facility" means any facility (including, but not limited to, motor vehicles and rolling stock) of any kind located in, on, or under, any land within the United States other than submerged land;

(11) "offshore facility" means any facility of any kind located in, on, or under, any of the navigable waters of the United States other than a vessel or a public vessel;

(12) "act of God" means an act occasioned by an unanticipated grave natural disaster;

(13) "barrel" means 42 United States gallons at 60 degrees Fahrenheit;

(14) "hazardous substance" means any substance designated pursuant to subsection (b)(2) of this section.

(b) Congressional declaration of policy against discharges of oil or hazardous substances; designation of hazardous substances; determination of removability; liability; penalties

(1) The Congress hereby declares that it is the policy of the United States that there should be no discharges of oil or hazardous substances into or upon the navigable waters of the United States, adjoining shorelines, or into or upon the waters of the contiguous zone.

(2)(A) The Administrator shall develop, promulgate, and revise as may be appropriate, regulations designating as hazardous substances, other than oil as defined in this section, such elements and compounds which, when discharged in any quantity into or upon the navigable waters of the United States or adjoining shorelines or the waters of the contiguous zone, present an imminent and substantial danger to the public health or welfare, including, but not limited to, fish, shellfish, wildlife, shorelines, and beaches.

(B)(i) The Administrator shall include in any designation under subparagraph (A) of this subsection a determination whether any such designated hazardous substance can actually be removed.

(ii) The owner or operator of any vessel, onshore facility, or offshore facility from which there is discharged during the two-year period beginning on October 18, 1972, any hazardous substance determined not removable under clause (i) of this subparagraph shall be liable, subject to the defenses to liability provided under subsection (f) of this section, as appropriate, to the United States for a civil penalty per discharge established by the Administrator based on toxicity, degradability, and dispersal characteristics of such substance, in an amount not to exceed $50,000, except that where the United States can show that such discharge was a result of willful negligence or willful misconduct within the privity and knowledge of the owner, such owner or operator shall be liable to the United States for a civil penalty in such amount as the Administrator shall establish, based upon the toxicity, degradability, and dispersal characteristics of such substance.

(iii) After the expiration of the two-year period referred to in clause (ii) of this subparagraph, the owner or operator of any vessel, onshore facility, or offshore facility, from which there is discharged any hazardous substance determined not removable under clause (i) of this subparagraph shall be liable, subject to the defenses to liability provided in subsection (f) of this section, to the United States for either one or the other of the following penalties, the determination of which shall be in the discretion of the Administrator:

(aa) a penalty in such amount as the Administrator shall establish, based on the toxicity, degradability, and dispersal characteristics of the substance, but not less than $500 nor more than $5,000; or

(bb) a penalty determined by the number of units discharged multiplied by the amount established for such unit under clause (iv) of this subparagraph, but such penalty shall not be more than $5,000,000 in the case of a discharge from a vessel and $500,000 in the case of a discharge from an onshore or offshore facility.

(iv) The Administrator shall establish by regulation, for each hazardous substance designated under subparagraph (A) of this paragraph, and within 180 days of the date of such designation, a unit of measurement based upon the usual trade practice and, for the purpose of determining the penalty under clause (iii)(bb) of this subparagraph, shall establish for each such unit a fixed monetary amount which shall be not less than $100 nor more than $1,000 per unit. He shall establish such fixed amount based on the toxicity, degradability, and dispersal characteristics of the substance.

(3) The discharge of oil or hazardous substances into or upon the navigable waters of the United States, adjoining shorelines, or into or upon the waters of the contiguous zone in harmful quantities as determined by the President under paragraph (4) of this subsection, is prohibited, except (A) in the case of such discharges of oil into the waters of the contiguous zone, where permitted under article IV of the International Convention for the Prevention of Pollution of the Sea by Oil, 1954, as amended, and (B) where permitted in quantities and at times and locations or under such circumstances or conditions as the President may, by regulation, determine not to be harmful. Any regulations issued under this subsection shall be consistent with maritime safety and with

marine and navigation laws and regulations and applicable water quality standards.

(4) The President shall by regulation, to be issued as soon as possible after October 18, 1972, determine for the purposes of this section, those quantities of oil and any hazardous substance the discharge of which, at such times, locations, circumstances, and conditions, will be harmful to the public health or welfare of the United States, including, but not limited to, fish, shellfish, wildlife, and public and private property, shorelines, and beaches except that in the case of the discharge of oil into or upon the waters of the contiguous zone, only those discharges which threaten the fishery resources of the contiguous zone or threaten to pollute or contribute to the pollution of the territory or the territorial sea of the United States may be determined to be harmful.

(5) Any person in charge of a vessel or of an onshore facility or an offshore facility shall, as soon as he has knowledge of any discharge of oil or a hazardous substance from such vessel or facility in violation of paragraph (3) of this subsection, immediately notify the appropriate agency of the United States Government of such discharge. Any such person who fails to notify immediately such agency of such discharge shall, upon conviction, be fined not more than $10,000, or imprisoned for not more than one year, or both. Notification received pursuant to this paragraph or information obtained by the exploitation of such notification shall not be used against any such person in any criminal case, except a prosecution for perjury or for giving a false statement.

(6) Any owner or operator of any vessel, onshore facility, or offshore facility from which oil or a hazardous substance is discharged in violation of paragraph (3) of this subsection shall be assessed a civil penalty by the Secretary of the department in which the Coast Guard is operating of not more than $5,000 for each offense. No penalty shall be assessed unless the owner or operator charged shall have been given notice and opportunity for a hearing on such charge. Each violation is a separate offense. Any such civil penalty may be compromised by such Secretary. In determining the amount of the penalty, or the amount agreed upon in compromise, the appropriateness of such penalty to the size of the business of the owner or operator charged, the effect on the owner or operator's ability to continue in business, and the gravity of the violation, shall be considered by such Secretary. The Secretary of the Treasury shall withhold at the request of such Secretary the clearance required by section 91 of title 46 of any vessel the owner or operator of which is subject to the foregoing penalty. Clearance may be granted in such cases upon the filing of a bond or other surety satisfactory to such Secretary.

(c) Removal of discharged oil or hazardous substances; National Contingency Plan

(1) Whenever any oil or a hazardous substance is discharged, into or upon the navigable waters of the United States, adjoining shorelines, or into or upon the waters of the contiguous zone, the President is authorized to act to remove or arrange for the removal of such oil or substance at any time, unless he determines such removal will be done properly by the owner or operator of the vessel, onshore facility, or offshore facility from which the discharge occurs.

(2) Within sixty days after October 18, 1972, the President shall prepare and publish a National Contingency Plan for removal of oil and hazardous substances, pursuant to this subsection. Such National Contingency Plan shall provide for efficient, coordinated, and effective action to minimize damage from oil and hazardous substance discharges, including containment, dispersal, and removal of oil and hazardous substances, and shall include, but not be limited to—

(A) assignment of duties and responsibilities among Federal departments and agencies in coordination with State and local agencies, including, but not limited to, water pollution control, conservation, and port authorities;

(B) identification, procurement, maintenance, and storage of equipment and supplies;

(C) establishment or designation of a strike force consisting of personnel who shall be trained, prepared, and available to provide necessary services to carry out the Plan, including the establishment at major ports, to be determined by the President, of emergency task forces of trained personnel, adequate oil and hazardous substance pollution control equipment and material, and a detailed oil and hazardous substance pollution prevention and removal plan;

(D) a system of surveillance and notice designed to insure earliest possible notice of discharges of oil and hazardous substances to the appropriate Federal agency;

(E) establishment of a national center to provide coordination and direction for operations in carrying out the Plan;

(F) procedures and techniques to be employed in identifying, containing, dispersing, and removing oil and hazardous substances;

(G) a schedule, prepared in cooperation with the States, identifying (i) dispersants and other chemicals, if any, that may be used in carrying out the Plan, (ii) the waters in which such dispersants and chemicals may be used, and (iii) the quantities of such dispersant or chemical which can be used safely in such waters, which schedule shall provide in the case of any dispersant, chemical, or waters not specifically identified in such schedule that the President, or his delegate, may, on a case-by-case basis, identify the dispersants and other chemicals which may be used, the waters in which they may be used, and the quantities which can be used safely in such waters; and

(H) a system whereby the State or States affected by a discharge of oil or hazardous substance may act where necessary to remove such discharge and such State or States may be reimbursed from the fund established under subsection (k) of this section for the reasonable costs incurred in such removal.

The President may, from time to time, as he deems advisable revise or otherwise amend the National Contingency Plan. After publication of the National Contingency Plan, the removal of oil and hazardous substances and actions to minimize damage from oil and hazardous sub-

stance discharges shall, to the greatest extent possible, be in accordance with the National Contingency Plan.

(d) Maritime disaster discharges

Whenever a marine disaster in or upon the navigable waters of the United States has created a substantial threat of a pollution hazard to the public health or welfare of the United States, including, but not limited to, fish, shellfish, and wildlife and the public and private shorelines and beaches of the United States, because of a discharge, or an imminent discharge, of large quantities of oil, or of a hazardous substance from a vessel the United States may (A) coordinate and direct all public and private efforts directed at the removal or elimination of such threat; and (B) summarily remove, and, if necessary, destroy such vessel by whatever means are available without regard to any provisions of law governing the employment of personnel or the expenditure of appropriated funds. Any expense incurred under this subsection shall be a cost incurred by the United States Government for the purposes of subsection (f) of this section in the removal of oil or hazardous substance.

(e) Judicial relief

In addition to any other action taken by a State or local government, when the President determines there is an imminent and substantial threat to the public health or welfare of the United States, including, but not limited to, fish, shellfish, and wildlife and public and private property, shorelines, and beaches within the United States, because of an actual or threatened discharge of oil or hazardous substance into or upon the navigable waters of the United States from an onshore or offshore facility, the President may require the United States attorney of the district in which the threat occurs to secure such relief as may be necessary to abate such threat, and the district courts of the United States shall have jurisdiction to grant such relief as the public interest and the equities of the case may require.

(f) Liability for actual costs of removal

(1) Except where an owner or operator can prove that a discharge was caused solely by (A) an act of God, (B) an act of war, (C) negligence on the part of the United States Government, or (D) an act or omission of a third party without regard to whether any such act or omission was or was not negligent, or any combination of the foregoing clauses, such owner or operator of any vessel from which oil or a hazardous substance is discharged in violation of subsection (b)(3) of this section shall, notwithstanding any other provision of law, be liable to the United States Government for the actual costs incurred under subsection (c) of this section for the removal of such oil or substance by the United States Government in an amount not to exceed $100 per gross ton of such vessel or $14,000,000 whichever is lesser, except that where the United States can show that such discharge was the result of willful negligence or willful misconduct within the privity and knowledge of the owner, such owner or operator shall be liable to the United States Government for the full amount of such costs. Such costs shall constitute a maritime lien on such vessel which may be recovered in an action in rem in the district court of the United States for any district within which any vessel may be found. The United States may also bring an action against the owner or operator of such vessel in any court of competent jurisdiction to recover such costs.

(2) Except where an owner or operator of an onshore facility can prove that a discharge was caused solely by (A) an act of God, (B) an act of war, (C) negligence on the part of the United States Government, or (D) an act or omission of a third party without regard to whether any such act or omission was or was not negligent, or any combination of the foregoing clauses, such owner or operator of any such facility from which oil or a hazardous substance is discharged in violation of subsection (b)(3) of this section shall be liable to the United States Government for the actual costs incurred under subsection (c) of this section for the removal of such oil or substance by the United States Government in an amount not to exceed $8,000,000, except that where the United States can show that such discharge was the result of willful negligence or willful misconduct within the privity and knowledge of the owner, such owner or operator shall be liable to the United States Government for the full amount of such costs. The United States may bring an action against the owner or operator of such facility in any court of competent jurisdiction to recover such costs. The Administrator is authorized, by regulation, after consultation with the Secretary of Commerce and the Small Business Administration, to establish reasonable and equitable classifications of those onshore facilities having a total fixed storage capacity of 1,000 barrels or less which he determines because of size, type, and location do not present a substantial risk of the discharge of oil or a hazardous substance in violation of subsection (b)(3) of this section, and apply with respect to such classifications differing limits of liability which may be less than the amount contained in this paragraph.

(3) Except where an owner or operator of an offshore facility can prove that a discharge was caused solely by (A) an act of God, (B) an act of war, (C) negligence on the part of the United States Government, or (D) an act or omission of a third party without regard to whether any such act or omission was or was not negligent, or any combination of the foregoing clauses, such owner or operator of any such facility from which oil or a hazardous substance is discharged in violation of subsection (b)(3) of this section shall, notwithstanding any other provision of law, be liable to the United States Government for the actual costs incurred under subsection (c) of this section for the removal of such oil or substance by the United States Government in an amount not to exceed $8,000,000, except that where the United States can show that such discharge was the result of willful negligence or willful misconduct within the privity and knowledge of the owner, such owner or operator shall be liable to the United States Government for the full amount of such costs. The United States may bring an action against the owner or operator of such a facility in any court of competent jurisdiction to recover such costs.

(g) Third party liability

In any case where an owner or operator of a vessel, of an onshore facility, or of an offshore facility, from which oil or a hazardous substance is discharged in violation of subsection (b)(3) of this section, proves that such discharge of oil or hazardous substance was caused solely by an act or omission of a third party, or was caused solely by such an act or omission in combination with an act of God, an act of war, or negligence on the part of the United States Government, such third party shall, notwithstanding any other provision of law, be liable to the United States Government for the actual costs incurred under subsection (c) of this section for removal of such oil or substance by the United States Government, except where such third party can prove that such discharge was caused solely by (A) an act of God, (B) an act of war, (C) negligence on the part of the United States Government, or (D) an act or omission of another party without regard to whether such act or omission was or was not negligent, or any combination of the foregoing clauses. If such third party was the owner or operator of a vessel which caused the discharge of oil or a hazardous substance in violation of subsection (b)(3) of this section, the liability of such third party under this subsection shall not exceed $100 per gross ton of such vessel or $14,000,000, whichever is the lesser. In any other case the liability of such third party shall not exceed the limitation which would have been applicable to the owner or operator of the vessel or the onshore or offshore facility from which the discharge actually occurred if such owner or operator were liable. If the United States can show that the discharge of oil or a hazardous substance in violation of subsection (b)(3) of this section was the result of willful negligence or willful misconduct within the privity and knowledge of such third party, such third party shall be liable to the United States Government for the full amount of such removal costs. The United States may bring an action against the third party in any court of competent jurisdiction to recover such removal costs.

(h) Rights against third parties who caused or contributed to discharge

The liabilities established by this section shall in no way affect any rights which (1) the owner or operator of a vessel or of an onshore facility or an offshore facility may have against any third party whose acts may in any way have caused or contributed to such discharge, or (2) the United States Government may have against any third party whose actions may in any way have caused or contributed to the discharge of oil or hazardous substance.

(i) Recovery of removal costs

(1) In any case where an owner or operator of a vessel or an onshore facility or an offshore facility from which oil or a hazardous substance is discharged in violation of subsection (b)(3) of this section acts to remove such oil or substance in accordance with regulations promulgated pursuant to this section, such owner or operator shall be entitled to recover the reasonable costs incurred in such removal upon establishing, in a suit which may be brought against the United States Government in the United States Court of Claims, that such discharge was caused solely by (A) an act of God, (B) an act of war, (C) negligence on the part of the United States Government, or (D) an act or omission of a third party without regard to whether such act or omission was or was not negligent, or of any combination of the foregoing causes.

(2) The provisions of this subsection shall not apply in any case where liability is established pursuant to the Outer Continental Shelf Lands Act [43 U.S.C. 1331 et seq.].

(3) Any amount paid in accordance with a judgment of the United States Court of Claims pursuant to this section shall be paid from the funds established pursuant to subsection (k) of this section.

(j) Regulations; penalty

(1) Consistent with the National Contingency Plan required by subsection (c)(2) of this section, as soon as practicable after October 18, 1972, and from time to time thereafter, the President shall issue regulations consistent with maritime safety and with marine and navigation laws (A) establishing methods and procedures for removal of discharged oil and hazardous substances. (B) establishing criteria for the development and implementation of local and regional oil and hazardous substance removal contingency plans, (C) establishing procedures, methods, and equipment and other requirements for equipment to prevent discharges of oil and hazardous substances from vessels and from onshore facilities and offshore facilities, and to contain such discharges, and (D) governing the inspection of vessels carrying cargoes of oil and hazardous substances and the inspection of such cargoes in order to reduce the likelihood of discharges of oil from vessels in violation of this section.

(2) Any owner or operator of a vessel or an onshore facility or an offshore facility and any other person subject to any regulation issued under paragraph (1) of this subsection who fails or refuses to comply with the provisions of any such regulations, shall be liable to a civil penalty of not more than $5,000 for each such violation. Each violation shall be a separate offense. The President may assess and compromise such penalty. No penalty shall be assessed until the owner, operator, or other person charged shall have been given notice and an opportunity for a hearing on such charge. In determining the amount of the penalty, or the amount agreed upon in compromise, the gravity of the violation, and the demonstrated good faith of the owner, operator, or other person charged in attempting to achieve rapid compliance, after notification of a violation, shall be considered by the President.

(k) Authorization of appropriations

There is hereby authorized to be appropriated to a revolving fund to be established in the Treasury not to exceed $35,000,000 to carry out the provisions of subsections (c), (d), (i), and (*l*) of this section. Any other funds received by the United States under this section shall also be deposited in said fund for such purposes. All sums appropriated to, or deposited in, said fund shall remain available until expended.

(l) Administration

The President is authorized to delegate the administration of this section to the heads of those Federal departments, agencies, and instrumentalities which he determines to be appropriate. Any moneys in the fund established by subsection (k) of this section shall be available to such Federal departments, agencies, and instrumentalities to carry out the provisions of subsections (c) and (i) of this section. Each such department, agency, and instrumentality, in order to avoid duplication of effort, shall, whenever appropriate, utilize the personnel, services, and facilities of other Federal departments, agencies, and instrumentalities.

(m) Boarding and inspection of vessels; arrest; execution of warrants or other process

Anyone authorized by the President to enforce the provisions of this section may, except as to public vessels, (A) board and inspect any vessel upon the navigable waters of the United States or the waters of the contiguous zone, (B) with or without a warrant arrest any person who violates the provisions of this section or any regulation issued thereunder in his presence or view, and (C) execute any warrant or other process issued by an officer or court of competent jurisdiction.

(n) Jurisdiction

The several district courts of the United States are invested with jurisdiction for any actions, other than actions pursuant to subsection (i)(1) of this section, arising under this section. In the case of Guam and the Trust Territory of the Pacific Islands, such actions may be brought in the district court of Guam, and in the case of the Virgin Islands such actions may be brought in the district court of the Virgin Islands. In the case of American Samoa and the Trust Territory of the Pacific Islands, such actions may be brought in the District Court of the United States for the District of Hawaii and such court shall have jurisdiction of such actions. In the case of the Canal Zone, such actions may be brought in the United States District Court for the District of the Canal Zone.

(o) Obligation for damages unaffected; local authority not preempted; existing Federal authority not modified or affected

(1) Nothing in this section shall affect or modify in any way the obligations of any owner or operator of any vessel, or of any owner or operator of any onshore facility or offshore facility to any person or agency under any provision of law for damages to any publicly owned or privately owned property resulting from a discharge of any oil or hazardous substance or from the removal of any such oil or hazardous substance.

(2) Nothing in this section shall be construed as preempting any State or political subdivision thereof from imposing any requirement or liability with respect to the discharge of oil or hazardous substance into any waters within such State.

(3) Nothing in this section shall be construed as affecting or modifying any other existing authority of any Federal department, agency, or instrumentality, relative to onshore or offshore facilities under this chapter or any other provision of law, or to affect any State or local law not in conflict with this section.

(p) Financial responsibility

(1) Any vessel over three hundred gross tons, including any barge of equivalent size, but not including any barge that is not self-propelled and that does not carry oil or hazardous substances as cargo or fuel, using any port or place in the United States or the navigable waters of the United States for any purpose shall establish and maintain under regulations to be prescribed from time to time by the President, evidence of financial responsibility of $100 per gross ton, or $14,000,000 whichever is the lesser, to meet the liability to the United States which such vessel could be subjected under this section. In cases where an owner or operator owns, operates, or charters more than one such vessel, financial responsibility need only be established to meet the maximum liability to which the largest of such vessels could be subjected. Financial responsibility may be established by any one of, or a combination of, the following methods acceptable to the President: (A) evidence of insurance, (B) surety bonds, (C) qualification as a self-insurer, or (D) other evidence of financial responsibility. Any bond filed shall be issued by a bonding company authorized to do business in the United States.

(2) The provisions of paragraph (1) of this subsection shall be effective April 3, 1971, with respect to oil and one year after October 18, 1972, with respect to hazardous substances. The President shall delegate the responsibility to carry out the provisions of this subsection to the appropriate agency head within sixty days after October 18, 1972. Regulations necessary to implement this subsection shall be issued within six months after October 18, 1972.

(3) Any claim for costs incurred by such vessel may be brought directly against the insurer or any other person providing evidence of financial responsibility as required under this subsection. In the case of any action pursuant to this subsection such insurer or other person shall be entitled to invoke all rights and defenses which would have been available to the owner or operator if an action had been brought against him by the claimant, and which would have been available to him if an action had been brought against him by the owner or operator.

(4) Any owner or operator of a vessel subject to this subsection, who fails to comply with the provisions of this subsection or any regulation issued thereunder, shall be subject to a fine of not more than $10,000.

(5) The Secretary of the Treasury may refuse the clearance required by section 91 of title 46 to any vessel subject to this subsection, which does not have evidence furnished by the President that the financial responsibility provisions of paragraph (1) of this subsection have been complied with.

(6) The Secretary of the Department in which the Coast Guard is operated may (A) deny entry to any port or place in the United States or the navigable waters of the United States, to, and (B) detain at the port or place in the United States from which it is about to depart for any other port or place in the United States, any vessel subject to this subsection,

which upon request, does not produce evidence furnished by the President that the financial responsibility provisions of paragraph (1) of this subsection have been complied with.

(June 30, 1948, ch. 758, title III, § 311, as added Oct. 18, 1972, Pub. L. 92-500, § 2, 86 Stat. 862, and amended Dec. 28, 1973, Pub. L. 93-207, § 1(4), 87 Stat. 906.)

REFERENCES IN TEXT

The Outer Continental Shelf Lands Act, referred to in subsec. (i)(2), is act Aug. 7, 1953, ch. 345, 67 Stat. 462, as amended, which is classified generally to subchapter III (§ 1331 et seq.) of chapter 29 of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1331 of Title 43 and Tables volume.

AMENDMENTS

1973—Subsec. (f)(1). Pub. L. 93-207, § 1(4)(A), substituted reference to subsec. (b)(3) of this section for reference to subsec. (b)(2) of this section.

Subsec. (f)(2). Pub. L. 93-207, § 1(4)(A), (B), substituted reference to subsec. (b)(3) of this section for reference to subsec. (b)(2) of this section in two places, and Administrator for Secretary.

Subsec. (f)(3). Pub. L. 93-207, § 1(4)(A), substituted reference to subsec. (b)(3) of this section for reference to subsecs. (b)(2) of this section.

Subsec. (g). Pub. L. 93-207, § 1(4)(C), substituted reference to subsec. (b)(3) of this section for reference to subsec. (b)(2) of this section in three places.

Subsec. (i). Pub. L. 93-207, § 1(4)(C), substituted reference to subsec. (b)(3) of this section for reference to subsec. (b)(2) of this section in par. (1).

EX. ORD. NO. 11735. ASSIGNMENT OF PRESIDENTIAL FUNCTIONS

Ex. Ord. No. 11735, Aug. 3, 1973, 38 F.R. 21243, provided:

By virtue of the authority vested in me by section 311 of the Federal Water Pollution Control Act, as amended, by the Federal Water Pollution Control Act Amendments of 1972 (Public Law 92-500; 86 Stat. 816 at 862; 33 U.S.C. 1321), hereinafter referred to as the act, by section 301 of title 3 of the United States Code, and as President of the United States, it is hereby ordered as follows:

SECTION 1. *Administrator of the Environmental Protection Agency.* The Administrator of the Environmental Protection Agency is hereby designated and empowered to exercise, without the approval, ratification, or other action of the President, the following:

(1) the authority of the President under subsections (b)(3) and (b)(4) of section 311 of the act [subsecs. (b)(3) and (b)(4) of the section] relating to the determination of those quantities of oil and hazardous substances the discharge of which, at such times, locations, circumstances, and conditions, will be harmful to the public health or welfare of the United States and those which will not be harmful;

(2) the authority of the President under subsection (c)(2)(G) of section 311 of the act [subsec. (c)(2)(G) of this section], relating to identification of dispersants and other chemicals to be used;

(3) the authority of the President under subsection (e) of section 311 of the act [subsec. (e) of this section], relating to determinations of imminent and substantial threat because of actual or threatened discharges of oil or hazardous substances from non-transportation-related onshore and offshore facilities, and relating to securing relief necessary to abate such actual or threatened discharges through court action; and

(4) the authority of the President under subsection (j)(1)(C) of section 311 of the act [subsec. (j)(1)(C) of this section], relating to the establishment of procedures, methods, and equipment and other requirements for equipment to prevent discharges of oil and hazardous substances from non-transportation-related onshore and offshore facilities, and to contain such discharges.

SEC. 2. *Secretary of Department in which the Coast Guard is Operating.* The Secretary of the Department in which the Coast Guard is operating is hereby designated and empowered to exercise, without the approval, ratification, or other action of the President, the following:

(1) the authority of the President under subsection (e) of section 311 of the act [subsec. (e) of this section], relating to determinations of imminent and substantial threat because of actual or threatened discharges of oil or hazardous substances from transportation-related onshore and offshore facilities, and relating to securing relief necessary to abate such actual or threatened discharges through court action;

(2) the authority of the President under subsection (j)(1)(C) of section 311 of the act [subsec. (j)(1)(C) of this section], relating to the establishment of procedures, methods, and equipment and other requirements for equipment to prevent discharges of oil and hazardous substances from vessels and transportation-related onshore and offshore facilities, and to contain such discharges;

(3) the authority of the President under subsection (j)(1)(D) of section 311 of the act [subsec. (j)(1)(D) of this section], relating to the inspection of vessels carrying cargoes of oil and hazardous substances and the inspection of such cargoes;

(4) the authority to administer the revolving fund established pursuant to subsection (k) of section 311 of the act [subsec. (k) of this section]; and

(5) the authority under subsection (m) of section 311 of the act [subsec. (m) of this section], relating to the boarding and inspection of vessels, the arrest of persons violating section 311 [this section], and the execution of warrants or other process pursuant to that section.

SEC. 3. *Federal Maritime Commission.* The Federal Maritime Commission is designated and empowered to exercise, without the approval, ratification, or other action of the President, the following:

(1) the authority of the President under subsection (p)(1) of section 311 of the act [subsec. (p)(1) of this section], relating to the issuance of regulations governing evidence of financial responsibility for vessels to meet liability to the United States; and

(2) the authority under subsection (p)(2) of section 311 of the act [subsec. (p)(2) of this section], relating to the administration of subsection (p) [subsec. (p) of this section].

SEC. 4. *Council on Environmental Quality.* The Council on Environmental Quality is hereby designated and empowered to exercise, without the approval, ratification, or other action of the President, the authority under subsection (c)(2) of section 311 of the act [subsec. (c)(2) of this section], providing for the preparation, publication, revision or amendment of a National Contingency Plan for the removal of oil and hazardous substance discharges (hereinafter referred to as the National Contingency Plan).

SEC. 5. *Other Assignments.*

(a) The head of each Federal department and agency having responsibilities under the National Contingency Plan (36 F.R. 16215), as now or hereafter amended, is designated and empowered to exercise, without the approval, ratification, or other action of the President, in accordance with that plan, the authority under subsection (c)(1) of section 311 of the act [subsec. (c)(1) of this section]; relating to the removal of oil and hazardous substances discharged into or upon the navigable waters of the United States, adjoining shorelines, or into or upon the waters of the contiguous zone.

(b) The Administrator of the Environmental Protection Agency and the Secretary of the Department in which the Coast Guard is operating, respectively, in and for the waters and areas for which each has responsibility for providing or furnishing on-scene-coordinators under the National Contingency Plan, are

designated and empowered to exercise, without approval, ratification, or other action of the President, the following:

(1) the authority under subsection (c)(2)(C) of section 311 of the act [subsec. (c)(2)(C) of this section], relating to the determination of major ports for establishment of emergency task forces;

(2) the authority under subsection (d) of section 311 of the act [subsec. (d) of this section], relating to the coordination and direction of the removal or elimination of threats of pollution hazards from discharges, or imminent discharges, of oil or hazardous substances, and the removal and destruction of vessels;

(3) the authority of the President under subsection (j)(1)(A) of section 311 of the act [subsec. (j)(1)(A) of this section], relating to the establishment of methods and procedures for the removal of discharged oil and hazardous substances; and

(4) the authority of the President under subsection (j)(1)(B) of section 311 of the act [subsec. (j)(1)(B) of this section], relating to the establishment of criteria for the development and implementation of local and regional oil and hazardous substance removal contingency plans.

(c) The Administrator of the Environmental Protection Agency and the Secretary of the Department in which the Coast Guard is operating are designated and empowered to exercise, without the approval, ratification, or other action of the President, the authority of the President under section 311(j)(2) [subsec. (j)(2) of this section] with respect to assessing and compromising civil penalties in connection with enforcement of the respective regulations issued by each pursuant to this order.

SEC. 6. *Consultation.* Authorities and functions delegated or assigned by this order shall be exercised subject to consultation with the Secretaries of departments and the heads of agencies with operating or regulatory responsibilities which may be significantly affected.

SEC. 7. *Agency to Receive Notices of Discharges of Oil or Hazardous Substances.* The Coast Guard is hereby designated the "appropriate agency" for the purpose of receiving the notice of discharge of oil or hazardous substances required by subsection (b)(5) of section 311 of the act [subsec. (b)(5) of this section]. The Commandant of the Coast Guard shall issue regulations implementing this designation.

SEC. 8. Without derogating from any action heretofore taken thereunder, Executive Order No. 11548 of July 20, 1970, is hereby superseded.

RICHARD NIXON.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1014, 1318, 1376, 1402, 1486, 1517 of this title; title 43 section 1653.

§ 1322. Marine sanitation devices

(a) Definitions

For the purpose of this section, the term—

(1) "new vessel" includes every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on the navigable waters, the construction of which is initiated after promulgation of standards and regulations under this section;

(2) "existing vessel" includes every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on the navigable waters, the construction of which is initiated before promulgation of standards and regulations under this section;

(3) "public vessel" means a vessel owned or bareboat chartered and operated by the United States, by a State or political subdivision thereof, or by a foreign nation, except when such vessel is engaged in commerce;

(4) "United States" includes the States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Canal Zone, and the Trust Territory of the Pacific Islands;

(5) "marine sanitation device" includes any equipment for installation on board a vessel which is designed to receive, retain, treat, or discharge sewage, and any process to treat such sewage;

(6) "sewage" means human body wastes and the wastes from toilets and other receptacles intended to receive or retain body wastes;

(7) "manufacturer" means any person engaged in the manufacturing, assembling, or importation of marine sanitation devices or of vessels subject to standards and regulations promulgated under this section;

(8) "person" means an individual, partnership, firm, corporation, or association, but does not include an individual on board a public vessel;

(9) "discharge" includes, but is not limited to, any spilling, leaking, pumping, pouring, emitting, emptying or dumping.

(b) Federal standards of performance

(1) As soon as possible, after October 18, 1972, and subject to the provisions of section 1254(j) of this title, the Administrator, after consultation with the Secretary of the department in which the Coast Guard is operating, after giving appropriate consideration to the economic costs involved, and within the limits of available technology, shall promulgate Federal standards of performance for marine sanitation devices (hereafter in this section referred to as "standards") which shall be designed to prevent the discharge of untreated or inadequately treated sewage into or upon the navigable waters from new vessels and existing vessels, except vessels not equipped with installed toilet facilities. Such standards shall be consistent with maritime safety and the marine and navigation laws and regulations and shall be coordinated with the regulations issued under this subsection by the Secretary of the department in which the Coast Guard is operating. The Secretary of the department in which the Coast Guard is operating shall promulgate regulations, which are consistent with standards promulgated under this subsection and with maritime safety and the marine and navigation laws and regulations governing the design, construction, installation, and operation of any marine sanitation device on board such vessels.

(2) Any existing vessel equipped with a marine sanitation device on the date of promulgation of initial standards and regulations under this section, which device is in compliance with such initial standards and regulations, shall be deemed in compliance with this section until such time as the device is replaced or is found not to be in compliance with such initial standards and regulations.

(c) Initial standards; effective dates; revision; waiver

(1) Initial standards and regulations under this section shall become effective for new vessels two years after promulgation; and for existing vessels five years after promulgation. Revi-

sions of standards and regulations shall be effective upon promulgation, unless another effective date is specified, except that no revision shall take effect before the effective date of the standard or regulation being revised.

(2) The Secretary of the department in which the Coast Guard is operating with regard to his regulatory authority established by this section, after consultation with the Administrator, may distinguish among classes, type, and sizes of vessels as well as between new and existing vessels, and may waive applicability of standards and regulations as necessary or appropriate for such classes, types, and sizes of vessels (including existing vessels equipped with marine sanitation devices on the date of promulgation of the initial standards required by this section), and, upon application, for individual vessels.

(d) Vessels owned and operated by the United States

The provisions of this section and the standards and regulations promulgated hereunder apply to vessels owned and operated by the United States unless the Secretary of Defense finds that compliance would not be in the interest of national security. With respect to vessels owned and operated by the Department of Defense, regulations under the last sentence of subsection (b)(1) of this section and certifications under subsection (g)(2) of this section shall be promulgated and issued by the Secretary of Defense.

(e) Pre-promulgation consultation

Before the standards and regulations under this section are promulgated, the Administrator and the Secretary of the department in which the Coast Guard is operating shall consult with the Secretary of State; the Secretary of Health, Education, and Welfare; the Secretary of Defense; the Secretary of the Treasury; the Secretary of Commerce; other interested Federal agencies; and the States and industries interested; and otherwise comply with the requirements of section 553 of title 5.

(f) Regulation by States or political subdivisions thereof; complete prohibition upon discharge of sewage

(1) After the effective date of the initial standards and regulations promulgated under this section, no State or political subdivision thereof shall adopt or enforce any statute or regulation of such State or political subdivision with respect to the design, manufacture, or installation or use of any marine sanitation device on any vessel subject to the provisions of this section.

(2) If, after promulgation of the initial standards and regulations and prior to their effective date, a vessel is equipped with a marine sanitation device in compliance with such standards and regulations and the installation and operation of such device is in accordance with such standards and regulations, such standards and regulations shall, for the purposes of paragraph (1) of this subsection, become effective with respect to such vessel on the date of such compliance.

(3) After the effective date of the initial standards and regulations promulgated under this section, if any State determines that the protection and enhancement of the quality of some or all of the waters within such State require greater environmental protection, such State may completely prohibit the discharge from all vessels of any sewage, whether treated or not, into such waters, except that no such prohibition shall apply until the Administrator determines that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for such water to which such prohibition would apply. Upon application of the State, the Administrator shall make such determination within 90 days of the date of such application.

(4) If the Administrator determines upon application by a State that the protection and enhancement of the quality of specified waters within such State requires such a prohibition, he shall by regulation completely prohibit the discharge from a vessel of any sewage (whether treated or not) into such waters.

(g) Sales limited to certified devices; certification of test device; recordkeeping; reports

(1) No manufacturer of a marine sanitation device shall sell, offer for sale, or introduce or deliver for introduction in interstate commerce, or import into the United States for sale or resale any marine sanitation device manufactured after the effective date of the standards and regulations promulgated under this section unless such device is in all material respects substantially the same as a test device certified under this subsection.

(2) Upon application of the manufacturer, the Secretary of the department in which the Coast Guard is operating shall so certify a marine sanitation device if he determines, in accordance with the provisions of this paragraph, that it meets the appropriate standards and regulations promulgated under this section. The Secretary of the department in which the Coast Guard is operating shall test or require such testing of the device in accordance with procedures set forth by the Administrator as to standards of performance and for such other purposes as may be appropriate. If the Secretary of the department in which the Coast Guard is operating determines that the device is satisfactory from the standpoint of safety and any other requirements of maritime law or regulation, and after consideration of the design, installation, operation, material, or other appropriate factors, he shall certify the device. Any device manufactured by such manufacturer which is in all material respects substantially the same as the certified test device shall be deemed to be in conformity with the appropriate standards and regulations established under this section.

(3) Every manufacturer shall establish and maintain such records, make such reports, and provide such information as the Administrator or the Secretary of the department in which the Coast Guard is operating may reasonably require to enable him to determine whether such manufacturer has acted or is acting in compliance with this section and regulations issued thereunder and shall, upon request of an officer or employee duly designated by the Administrator or the Secretary of the department in which the Coast Guard is operating, permit such officer or employee at reasonable times to have access to and copy such records. All infor-

mation reported to or otherwise obtained by the Administrator or the Secretary of the Department in which the Coast Guard is operating or their representatives pursuant to this subsection which contains or relates to a trade secret or other matter referred to in section 1905 of title 18 shall be considered confidential for the purpose of that section, except that such information may be disclosed to other officers or employees concerned with carrying out this section. This paragraph shall not apply in the case of the construction of a vessel by an individual for his own use.

(h) Sale and resale of properly equipped vessels; operability of certified marine sanitation devices

After the effective date of standards and regulations promulgated under this section, it shall be unlawful—

(1) for the manufacturer of any vessel subject to such standards and regulations to manufacture for sale, to sell or offer for sale, or to distribute for sale or resale any such vessel unless it is equipped with a marine sanitation device which is in all material respects substantially the same as the appropriate test device certified pursuant to this section;

(2) for any person, prior to the sale or delivery of a vessel subject to such standards and regulations to the ultimate purchaser, wrongfully to remove or render inoperative any certified marine sanitation device or element of design of such device installed in such vessel;

(3) for any person to fail or refuse to permit access to or copying of records or to fail to make reports or provide information required under this section; and

(4) for a vessel subject to such standards and regulations to operate on the navigable waters of the United States, if such vessel is not equipped with an operable marine sanitation device certified pursuant to this section.

(i) Jurisdiction to restrain violations; contempts

The district courts of the United States shall have jurisdictions to restrain violations of subsection (g)(1) of this section and subsections (h)(1) through (3) of this section. Actions to restrain such violations shall be brought by, and in, the name of the United States. In case of contumacy or refusal to obey a subpena served upon any person under this subsection, the district court of the United States for any district in which such person is found or resides or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony or to appear and produce documents, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(j) Penalties

Any person who violates subsection (g)(1) of this section or clause (1) or (2) of subsection (h) of this section shall be liable to a civil penalty of not more than $5,000 for each violation. Any person who violates clause (4) of subsection (h) of this section or any regulation issued pursuant to this section shall be liable to a civil penalty of not more than $2,000 for each violation. Each violation shall be a separate offense. The Secretary of the department in which the Coast Guard is operating may assess and compromise any such penalty. No penalty shall be assessed until the person charged shall have been given notice and an opportunity for a hearing on such charge. In determining the amount of the penalty, or the amount agreed upon in compromise, the gravity of the violation, and the demonstrated good faith of the person charged in attempting to achieve rapid compliance, after notification of a violation, shall be considered by said Secretary.

(k) Enforcement authority

The provisions of this section shall be enforced by the Secretary of the department in which the Coast Guard is operating and he may utilize by agreement, with or without reimbursement, law enforcement officers or other personnel and facilities of the Administrator, other Federal agencies, or the States to carry out the provisions of this section.

(*l*) Boarding and inspection of vessels; execution of warrants and other process

Anyone authorized by the Secretary of the department in which the Coast Guard is operating to enforce the provisions of this section may, except as to public vessels, (1) board and inspect any vessel upon the navigable waters of the United States and (2) execute any warrant or other process issued by an officer or court of competent jurisdiction.

(m) Enforcement in United States possessions

In the case of Guam and the Trust Territory of the Pacific Islands, actions arising under this section may be brought in the district court of Guam, and in the case of the Virgin Islands such actions may be brought in the district court of the Virgin Islands. In the case of American Samoa and the Trust Territory of the Pacific Islands, such actions may be brought in the District Court of the United States for the District of Hawaii and such court shall have jurisdiction of such actions. In the case of the Canal Zone, such actions may be brought in the District Court for the District of the Canal Zone.

(June 30, 1948, ch. 758, title III, § 312, as added Oct. 18, 1972, Pub. L. 92-500, § 2, 86 Stat. 871.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1254, 1362, 1402 of this title.

§ 1323. Federal facilities pollution control

Each department, agency, or instrumentality of the executive, legislative, and judicial branches of the Federal Government (1) having jurisdiction over any property or facility, or (2) engaged in any activity resulting, or which may result, in the discharge or runoff of pollutants shall comply with Federal, State, interstate, and local requirements respecting control and abatement of pollution to the same extent that any person is subject to such requirements, including the payment of reasonable service charges. The President may exempt any effluent source of any department, agency, or instrumentality in the executive branch from compliance with any such a requirement if he determines it to be in the paramount interest of the United States to do so; except that no ex-

emption may be granted from the requirements of section 1316 or 1317 of this title. No such exemptions shall be granted due to lack of appropriation unless the President shall have specifically requested such appropriation as a part of the budgetary process and the Congress shall have failed to make available such requested appropriation. Any exemption shall be for a period not in excess of one year, but additional exemptions may be granted for periods of not to exceed one year upon the President's making a new determination. The President shall report each January to the Congress all exemptions from the requirements of this section granted during the preceding calendar year, together with his reason for granting such exemption.

(June 30, 1948, ch. 758, title III, § 313, as added Oct. 18, 1972, Pub. L. 92-500, § 2, 86 Stat. 875.)

EXECUTIVE ORDER NO. 11258

Ex. Ord. No. 11258, Nov. 17, 1965, 30 F.R. 14483, formerly set out under section 1151 of this title, which related to prevention, control, and abatement of water pollution by federal activities, was superseded by Ex. Ord. No. 11286, July 2, 1966, 31 F.R. 9261.

EXECUTIVE ORDER NO. 11288

Ex. Ord. No. 11288, July 2, 1966, 31 F.R. 9261, which provided for prevention, control, and abatement of water pollution from federal activities, was superseded by Ex. Ord. No. 11507, Feb. 4, 1970, 35 F.R. 2573, set out as a note under section 4331 of Title 42, Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1365 of this title.

§ 1324. Clean lakes

(a) Each State shall prepare or establish, and submit to the Administrator for his approval—

(1) an identification and classification according to eutrophic condition of all publicly owned fresh water lakes in such State;

(2) procedures, processes, and methods (including land use requirements), to control sources of pollution of such lakes; and

(3) methods and procedures, in conjunction with appropriate Federal agencies, to restore the quality of such lakes.

(b) The Administrator shall provide financial assistance to States in order to carry out methods and procedures approved by him under this section.

(c)(1) The amount granted to any State for any fiscal year under this section shall not exceed 70 per centum of the funds expended by such State in such year for carrying out approved methods and procedures under this section.

(2) There is authorized to be appropriated $50,000,000 for the fiscal year ending June 30, 1973; $100,000,000 for the fiscal year 1974; and $150,000,000 for the fiscal year 1975 for grants to States under this section which such sums shall remain available until expended. The Administrator shall provide for an equitable distribution of such sums to the States with approved methods and procedures under this section.

(June 30, 1948, ch. 758, title III, § 314, as added Oct. 18, 1972, Pub. L. 92-500, § 2, 86 Stat. 875.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1376 of this title.

§ 1325. National Study Commission

(a) Establishment

There is established a National Study Commission, which shall make a full and complete investigation and study of all of the technological aspects of achieving, and all aspects of the total economic, social, and environmental effects of achieving or not achieving, the effluent limitations and goals set forth for 1983 in section 1311(b)(2) of this title.

(b) Membership; chairman

Such Commission shall be composed of fifteen members, including five members of the Senate, who are members of the Environment and Public Works committee, appointed by the President of the Senate, five members of the House, who are members of the Public Works and Transportation committee, appointed by the Speaker of the House, and five members of the public appointed by the President. The Chairman of such Commission shall be elected from among its members.

(c) Contract authority

In the conduct of such study, the Commission is authorized to contract with the National Academy of Sciences and the National Academy of Engineering (acting through the National Research Council), the National Institute of Ecology, Brookings Institution, and other nongovernmental entities, for the investigation of matters within their competence.

(d) Cooperation of departments, agencies, and instrumentalities of executive branch

The heads of the departments, agencies and instrumentalities of the executive branch of the Federal Government shall cooperate with the Commission in carrying out the requirements of this section, and shall furnish to the Commission such information as the Commission deems necessary to carry out this section.

(e) Report to Congress

A report shall be submitted to the Congress of the results of such investigation and study, together with recommendations, not later than three years after October 18, 1972.

(f) Compensation and allowances

The members of the Commission who are not officers or employees of the United States, while attending conferences or meetings of the Commission or while otherwise serving at the request of the Chairman shall be entitled to receive compensation at a rate not in excess of the maximum rate of pay for Grade GS-18, as provided in the General Schedule under section 5332 of title 5, including traveltime and while away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence as authorized by law for persons in the Government service employed intermittently.

(g) Appointment of personnel

In addition to authority to appoint personnel subject to the provisions of title 5 governing appointments in the competitive service, and to pay such personnel in accordance with the pro-

visions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, the Commission shall have authority to enter into contracts with private or public organizations who shall furnish the Commission with such administrative and technical personnel as may be necessary to carry out the purpose of this section. Personnel furnished by such organizations under this subsection are not, and shall not be considered to be, Federal employees for any purposes, but in the performance of their duties shall be guided by the standards which apply to employees of the legislative branches under rules 41 and 43 of the Senate and House of Representatives, respectively.

(h) Authorization of appropriation

There is authorized to be appropriated, for use in carrying out this section, not to exceed $17,250,000.

(June 30, 1948, ch. 758, title III, § 315, as added Oct. 18, 1972, Pub. L. 92-500, § 2, 86 Stat. 875, and amended Dec. 28, 1973, Pub. L. 93-207, § 1(5), 87 Stat. 906; Jan. 2, 1975, Pub. L. 93-592, § 5, 88 Stat. 1925; Mar. 23, 1976, Pub. L. 94-238, 90 Stat. 250; H. Res. 988, Oct. 8, 1974; S. Res. 4, Feb. 4, 1977.)

REFERENCES IN TEXT

Travel expenses, including per diem in lieu of subsistence as authorized by law, referred to subsec. (f), probably refers to the allowances authorized by section 5703 of Title 5, Government Organization and Employees.

The General Schedule, referred to in subsec. (g), is set out under section 5332 of Title 5, Government Organization and Employees.

AMENDMENTS

1976—Subsec. (h). Pub. L. 94-238 substituted "$17,250,000" for "$17,000,000".

1975—Subsec. (h). Pub. L. 93-592 substituted "$17,000,000" for "$15,000,000".

1973—Subsec. (g). Pub. L. 93-207 added subsec. (g). Former subsec. (g) redesignated (h).

Subsec. (h). Pub. L. 93-207 redesignated former subsec. (g) as (h).

CHANGE OF NAME

The Committee on Public Works of the Senate was abolished and replaced by the Committee on Environment and Public Works of the Senate, effective Feb. 11, 1977. See Rule XXV of the Standing Rules of the Senate, as amended by Senate Resolution 4 (popularly cited as the "Committee System Reorganization Amendments of 1977"), approved Feb. 4, 1977.

The Committee on Public Works of the House of Representatives was changed to the Committee on Public Works and Transportation of the House of Representatives, effective Jan. 3, 1975, by House Resolution 988, 93d Congress.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1311, 1376 of this title.

§ 1326. Thermal discharges

(a) Effluent limitations that will assure protection and propagation of balanced, indigenous population of shellfish, fish, and wildlife

With respect to any point source otherwise subject to the provisions of section 1311 of this title or section 1316 of this title, whenever the owner or operator of any such source, after opportunity for public hearing, can demonstrate to the satisfaction of the Administrator (or, if appropriate, the State) that any effluent limitation proposed for the control of the thermal component of any discharge from such source will require effluent limitations more stringent than necessary to assure the projection and propagation of a balanced, indigenous population of shellfish, fish, and wildlife in and on the body of water into which the discharge is to be made, the Administrator (or, if appropriate, the State) may impose an effluent limitation under such sections for such plant, with respect to the thermal component of such discharge (taking into account the interaction of such thermal component with other pollutants), that will assure the protection and propagation of a balanced, indigenous population of shellfish, fish, and wildlife in and on that body of water.

(b) Cooling water intake structures

Any standard established pursuant to section 1311 of this title or section 1316 of this title and applicable to a point source shall require that the location, design, construction, and capacity of cooling water intake structures reflect the best technology available for minimizing adverse environmental impact.

(c) Period of protection from more stringent effluent limitations following discharge point source modification commenced after October 18, 1972

Notwithstanding any other provision of this chapter, any point source of a discharge having a thermal component, the modification of which point source is commenced after October 18, 1972, and which, as modified, meets effluent limitations established under section 1311 of this title or, if more stringent, effluent limitations established under section 1313 of this title and which effluent limitations will assure protection and propagation of a balanced, indigenous population of shellfish, fish, and wildlife in or on the water into which the discharge is made, shall not be subject to any more stringent effluent limitation with respect to the thermal component of its discharge during a ten year period beginning on the date of completion of such modification or during the period of depreciation or amortization of such facility for the purpose of section 167 or 169 (or both) of title 26, whichever period ends first.

(June 30, 1948, ch. 758, title III, § 316, as added Oct. 18, 1972, Pub. L. 92-500, § 2, 86 Stat. 876.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1254, 1313 of this title.

§ 1327. Omitted

CODIFICATION

Section, act June 30, 1948, ch. 758, title III, § 317, as added Oct. 18, 1972, Pub. L. 92-500, § 2, 86 Stat. 877, which authorized the Administrator to investigate and study the feasibility of alternate methods of financing the cost of preventing, controlling, and abating pollution as directed by the Water Quality Improvement Act of 1970 and to report to Congress, not later than two years after Oct. 18, 1972, the results of his investigation and study accompanied by his recommendations for financing these programs for the fiscal years beginning after 1976, was omitted from the Code as executed.

§ 1328. Aquaculture

(a) The Administrator is authorized, after public hearings, to permit the discharge of a specific pollutant or pollutants under controlled conditions associated with an approved aquaculture project under Federal or State supervision.

(b) The Administrator shall by regulation, not later than January 1, 1974, establish any procedures and guidelines he deems necessary to carry out this section.

(June 30, 1948, ch. 758, title III, § 318, as added Oct. 18, 1972, Pub. L. 92-500, § 2, 86 Stat. 877.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1311, 1342 of this title.

SUBCHAPTER IV—PERMITS AND LICENSES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 1313 of this title.

§ 1341. Certification

(a) Compliance with applicable requirements; application; procedures; license suspension

(1) Any applicant for a Federal license or permit to conduct any activity including, but not limited to, the construction or operation of facilities, which may result in any discharge into the navigable waters, shall provide the licensing or permitting agency a certification from the State in which the discharge originates or will originate, or, if appropriate, from the interstate water pollution control agency having jurisdiction over the navigable waters at the point where the discharge originates or will originate, that any such discharge will comply with the applicable provisions of sections 1311, 1312, 1316, and 1317 of this title. In the case of any such activity for which there is not an applicable effluent limitation or other limitation under sections 1311(b) and 1312 of this title, and there is not an applicable standard under sections 1316 and 1317 of this title, the State shall so certify, except that any such certification shall not be deemed to satisfy section 1371(c) of this title. Such State or interstate agency shall establish procedures for public notice in the case of all applications for certification by it and, to the extent it deems appropriate, procedures for public hearings in connection with specific applications. In any case where a State or interstate agency has no authority to give such a certification, such certification shall be from the Administrator. If the State, interstate agency, or Administrator, as the case may be, fails or refuses to act on a request for certification, within a reasonable period of time (which shall not exceed one year) after receipt of such request, the certification requirements of this subsection shall be waived with respect to such Federal application. No license or permit shall be granted until the certification required by this section has been obtained or has been waived as provided in the preceding sentence. No license or permit shall be granted if certification has been denied by the State, interstate agency, or the Administrator, as the case may be.

(2) Upon receipt of such application and certification the licensing or permitting agency shall immediately notify the Administrator of such application and certification. Whenever such a discharge may affect, as determined by the Administrator, the quality of the waters of any other State, the Administrator within thirty days of the date of notice of application for such Federal license or permit shall so notify such other State, the licensing or permitting agency, and the applicant. If, within sixty days after receipt of such notification, such other State determines that such discharge will affect the quality of its waters so as to violate any water quality requirements in such State, and within such sixty-day period notifies the Administrator and the licensing or permitting agency in writing of its objection to the issuance of such license or permit and requests a public hearing on such objection, the licensing or permitting agency shall hold such a hearing. The Administrator shall at such hearing submit his evaluation and recommendations with respect to any such objection to the licensing or permitting agency. Such agency, based upon the recommendations of such State, the Administrator, and upon any additional evidence, if any, presented to the agency at the hearing, shall condition such license or permit in such manner as may be necessary to insure compliance with applicable water quality requirements. If the imposition of conditions cannot insure such compliance such agency shall not issue such license or permit.

(3) The certification obtained pursuant to paragraph (1) of this subsection with respect to the construction of any facility shall fulfill the requirements of this subsection with respect to certification in connection with any other Federal license or permit required for the operation of such facility unless, after notice to the certifying State, agency, or Administrator, as the case may be, which shall be given by the Federal agency to whom application is made for such operating license or permit, the State, or if appropriate, the interstate agency or the Administrator, notifies such agency within sixty days after receipt of such notice that there is no longer reasonable assurance that there will be compliance with the applicable provisions of sections 1311, 1312, 1316, and 1317 of this title because of changes since the construction license or permit certification was issued in (A) the construction or operation of the facility, (B) the characteristics of the waters into which such discharge is made, (C) the water quality criteria applicable to such waters or (D) applicable effluent limitations or other requirements. This paragraph shall be inapplicable in any case where the applicant for such operating license or permit has failed to provide the certifying State, or, if appropriate, the interstate agency or the Administrator, with notice of any proposed changes in the construction or operation of the facility with respect to which a construction license or permit has been granted, which changes may result in violation of section 1311, 1312, 1316, or 1317 of this title.

(4) Prior to the initial operation of any federally licensed or permitted facility or activity which may result in any discharge into the navigable waters and with respect to which a

certification has been obtained pursuant to paragraph (1) of this subsection, which facility or activity is not subject to a Federal operating license or permit, the licensee or permittee shall provide an opportunity for such certifying State, or, if appropriate, the interstate agency or the Administrator to review the manner in which the facility or activity shall be operated or conducted for the purposes of assuring that applicable effluent limitations or other limitations or other applicable water quality requirements will not be violated. Upon notification by the certifying State, or if appropriate, the interstate agency or the Administrator that the operation of any such federally licensed or permitted facility or activity will violate applicable effluent limitations or other limitations or other water quality requirements such Federal agency may, after public hearing, suspend such license or permit. If such license or permit is suspended, it shall remain suspended until notification is received from the certifying State, agency, or Administrator, as the case may be, that there is reasonable assurance that such facility or activity will not violate the applicable provisions of section 1311, 1312, 1316, or 1317 of this title.

(5) Any Federal license or permit with respect to which a certification has been obtained under paragraph (1) of this subsection may be suspended or revoked by the Federal agency issuing such license or permit upon the entering of a judgment under this chapter that such facility or activity has been operated in violation of the applicable provisions of section 1311, 1312, 1316, or 1317 of this title.

(6) No Federal agency shall be deemed to be an applicant for the purposes of this subsection.

(7) Except with respect to a permit issued under section 1342 of this title, in any case where actual construction of a facility has been lawfully commenced prior to April 3, 1970, no certification shall be required under this subsection for a license or permit issued after April 3, 1970, to operate such facility, except that any such license or permit issued without certification shall terminate April 3, 1973, unless prior to such termination date the person having such license or permit submits to the Federal agency which issued such license or permit a certification and otherwise meets the requirements of this section.

(b) Compliance with other provisions of law setting applicable water quality requirements

Nothing in this section shall be construed to limit the authority of any department or agency pursuant to any other provision of law to require compliance with any applicable water quality requirements. The Administrator shall, upon the request of any Federal department or agency, or State or interstate agency, or applicant, provide, for the purpose of this section, any relevant information on applicable effluent limitations, or other limitations, standards, regulations, or requirements, or water quality criteria, and shall, or State or interstate agency, or applicant, comment when requested by any such department or agency on any methods to comply with such limitations, standards, regulations, requirements, or criteria.

(c) Authority of Secretary of the Army to permit use of spoil disposal areas by Federal licensees or permittees

In order to implement the provisions of this section, the Secretary of the Army, acting through the Chief of Engineers, is authorized, if he deems it to be in the public interest, to permit the use of spoil disposal areas under his jurisdiction by Federal licensees or permittees, and to make an appropriate charge for such use. Moneys received from such licensees or permittees shall be deposited in the Treasury as miscellaneous receipts.

(d) Limitations and monitoring requirements of certification

Any certification provided under this section shall set forth any effluent limitations and other limitations, and monitoring requirements necessary to assure that any applicant for a Federal license or permit will comply with any applicable effluent limitations and other limitations, under section 1311 or 1312 of this title, standard of performance under section 1316 of this title, or prohibition, effluent standard, or pretreatment standard under section 1317 of this title, and with any other appropriate requirement of State law set forth in such certification, and shall become a condition on any Federal license or permit subject to the provisions of this section.

(June 30, 1948, ch. 758, title IV, § 401, as added Oct. 18, 1972, Pub. L. 92-500, § 2, 86 Stat. 877.)

ADMINISTRATION OF REFUSE ACT PERMIT PROGRAM

Administration of Refuse Act Permit Program to regulate discharge of pollutants and other refuse matter into navigable waters of the United States or their tributaries, see Ex. Ord. No. 11574, Dec. 23, 1970, 35 F.R. 19627, set out as a note under section 407 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1314, 1365, 1371 of this title.

§ 1342. National pollutant discharge elimination system

(a) Permits for discharge of pollutants

(1) Except as provided in sections 1328 and 1344 of this title, the Administrator may, after opportunity for public hearing issue a permit for the discharge of any pollutant, or combination of pollutants, notwithstanding section 1311(a) of this title, upon condition that such discharge will meet either all applicable requirements under sections 1311, 1312, 1316, 1317, 1318, and 1343 of this title, or prior to the taking of necessary implementing actions relating to all such requirements, such conditions as the Administrator determines are necessary to carry out the provisions of this chapter.

(2) The Administrator shall prescribe conditions for such permits to assure compliance with the requirements of paragraph (1) of this subsection, including conditions on data and information collection, reporting, and such other requirements as he deems appropriate.

(3) The permit program of the Administrator under paragraph (1) of this subsection, and permits issued thereunder, shall be subject to the same terms, conditions, and requirements as apply to a State permit program and permits

issued thereunder under subsection (b) of this section.

(4) All permits for discharges into the navigable waters issued pursuant to section 407 of this title shall be deemed to be permits issued under this subchapter, and permits issued under this subchapter shall be deemed to be permits issued under section 407 of this title, and shall continue in force and effect for their term unless revoked, modified, or suspended in accordance with the provisions of this chapter.

(5) No permit for a discharge into the navigable waters shall be issued under section 407 of this title after October 18, 1972. Each application for a permit under section 407 of this title, pending on October 18, 1972, shall be deemed to be an application for a permit under this section. The Administrator shall authorize a State, which he determines has the capability of administering a permit program which will carry out the objectives of this chapter to issue permits for discharges into the navigable waters within the jurisdiction of such State. The Administrator may exercise the authority granted him by the preceding sentence only during the period which begins on October 18, 1972, and ends either on the ninetieth day after the date of the first promulgation of guidelines required by section 1314(h)(2) of this title, or the date of approval by the Administrator of a permit program for such State under subsection (b) of this section, whichever date first occurs, and no such authorization to a State shall extend beyond the last day of such period. Each such permit shall be subject to such conditions as the Administrator determines are necessary to carry out of the provisions of this chapter. No such permit shall issue if the Administrator objects to such issuance.

(b) State permit programs

At any time after the promulgation of the guidelines required by subsection (h)(2) of section 1314 of this title, the Governor of each State desiring to administer its own permit program for discharges into navigable waters within its jurisdiction may submit to the Administration a full and complete description of the program it proposes to establish and administer under State law or under an interstate compact. In addition, such State shall submit a statement from the attorney general (or the attorney for those State water pollution control agencies which have independent legal counsel), or from the chief legal officer in the case of an interstate agency, that the laws of such State, or the interstate compact, as the case may be, provide adequate authority to carry out the described program. The Administrator shall approve each submitted program unless he determines that adequate authority does not exist:

(1) To issue permits which—

(A) apply, and insure compliance with, any applicable requirements of sections 1311, 1312, 1316, 1317, and 1343 of this title;

(B) are for fixed terms not exceeding five years; and

(C) can be terminated or modified for cause including, but not limited to, the following:

(i) violation of any condition of the permit;

(ii) obtaining a permit by misrepresentation, or failure to disclose all relevant facts;

(iii) change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge;

(D) control the disposal of pollutants into wells;

(2)(A) To issue permits which apply, and insure compliance with, all applicable requirements of section 1318 of this title; or

(B) To inspect, monitor, enter, and require reports to at least the same extent as required in section 1318 of this title;

(3) To insure that the public, and any other State the waters of which may be affected, receive notice of each application for a permit and to provide an opportunity for public hearing before a ruling on each such application;

(4) To insure that the Administrator receives notice of each application (including a copy thereof) for a permit;

(5) To insure that any State (other than the permitting State), whose waters may be affected by the issuance of a permit may submit written recommendations to the permitting State (and the Administrator) with respect to any permit application and, if any part of such written recommendations are not accepted by the permitting State, that the permitting State will notify such affected State (and the Administrator) in writing of its failure to so accept such recommendations together with its reasons for so doing;

(6) To insure that no permit will be issued if, in the judgment of the Secretary of the Army acting through the Chief of Engineers, after consultation with the Secretary of the department in which the Coast Guard is operating, anchorage and navigation of any of the navigable waters would be substantially impaired thereby;

(7) To abate violations of the permit or the permit program, including civil and criminal penalties and other ways and means of enforcement;

(8) To insure that any permit for a discharge from a publicly owned treatment works includes conditions to require adequate notice to the permitting agency of (A) new introductions into such works of pollutants from any source which would be a new source as defined in section 1316 of this title if such source were discharging pollutants, (B) new introductions of pollutants into such works from a source which would be subject to section 1311 of this title if it were discharging such pollutants, or (C) a substantial change in volume or character of pollutants being introduced into such works by a source introducing pollutants into such works at the time of issuance of the permit. Such notice shall include information on the quality and quantity of effluent to be introduced into such treatment works and any anticipated impact of such change in the quantity or quality of effluent to be discharged from such publicly owned treatment works; and

(9) To insure that any industrial user of any publicly owned treatment works will comply with sections 1284(b), 1317, and 1318 of this title.

(c) Suspension of federal program upon submission of State program; withdrawal of approval of State program

(1) Not later than ninety days after the date on which a State has submitted a program (or revision thereof) pursuant to subsection (b) of this section, the Administrator shall suspend the issuance of permits under subsection (a) of this section as to those navigable waters subject to such program unless he determines that the State permit program does not meet the requirements of subsection (b) of this section or does not conform to the guidelines issued under section 1314(h)(2) of this title. If the Administrator so determines, he shall notify the State of any revisions or modifications necessary to conform to such requirements or guidelines.

(2) Any State permit program under this section shall at all times be in accordance with this section and guidelines promulgated pursuant to section 1314(h)(2) of this title.

(3) Whenever the Administrator determines after public hearing that a State is not administering a program approved under this section in accordance with requirements of this section, he shall so notify the State and, if appropriate corrective action is not taken within a reasonable time, not to exceed ninety days, the Administrator shall withdraw approval of any such program unless he shall first have notified the State, and made public, in writing, the reasons for such withdrawal.

(d) Notification of Administrator

(1) Each State shall transmit to the Administrator a copy of each permit application received by such State and provide notice to the Administrator of every action related to the consideration of such permit application, including each permit proposed to be issued by such State.

(2) No permit shall issue (A) if the Administrator within ninety days of the date of his notification under subsection (b)(5) of this section objects in writing to the issuance of such permit, or (B) if the Administrator within ninety days of the date of transmittal of the proposed permit by the State objects in writing to the issuance of such permit as being outside the guidelines and requirements of this chapter.

(3) The Administrator may, as to any permit application, waive paragraph (2) of this subsection.

(e) Waiver of notification requirement

In accordance with guidelines promulgated pursuant to subsection (h)(2) of section 1314 of this title, the Administrator is authorized to waive the requirements of subsection (d) of this section at the time he approves a program pursuant to subsection (b) of this section for any category (including any class, type, or size within such category) of point sources within the State submitting such program.

(f) Point source categories

The Administrator shall promulgate regulations establishing categories of point sources which he determines shall not be subject to the requirements of subsection (d) of this section in any State with a program approved pursuant to subsection (b) of this section. The Administrator may distinguish among classes, types, and sizes within any category of point sources.

(g) Other regulations for safe transportation, handling, carriage, storage, and stowage of pollutants

Any permit issued under this section for the discharge of pollutants into the navigable waters from a vessel or other floating craft shall be subject to any applicable regulations promulgated by the Secretary of the department in which the Coast Guard is operating, establishing specifications for safe transportation, handling, carriage, storage, and stowage of pollutants.

(h) Violation of permit conditions; restriction or prohibition upon introduction of pollutant by source not previously utilizing treatment works

In the event any condition of a permit for discharges from a treatment works (as defined in section 1292 of this title) which is publicly owned is violated, a State with a program approved under subsection (b) of this section or the Administrator, where no State program is approved, may proceed in a court of competent jurisdiction to restrict or prohibit the introduction of any pollutant into such treatment works by a source not utilizing such treatment works prior to the finding that such condition was violated.

(i) Federal enforcement not limited

Nothing in this section shall be construed to limit the authority of the Administrator to take action pursuant to section 1319 of this title.

(j) Public information

A copy of each permit application and each permit issued under this section shall be available to the public. Such permit application or permit, or portion thereof, shall further be available on request for the purpose of reproduction.

(k) Compliance with permits

Compliance with a permit issued pursuant to this section shall be deemed compliance, for purposes of sections 1319 and 1365 of this title, with sections 1311, 1312, 1316, 1317, and 1343 of this title, except any standard imposed under section 1317 of this title for a toxic pollutant injurious to human health. Until December 31, 1974, in any case where a permit for discharge has been applied for pursuant to this section, but final administrative disposition of such application has not been made, such discharge shall not be a violation of (1) section 1311, 1316, or 1342 of this title, or (2) section 407 of this title, unless the Administrator or other plaintiff proves that final administrative disposition of such application has not been made because of the failure of the applicant to furnish information reasonably required or requested in order to process the application. For the 180-day period beginning on October 18, 1972, in the case of any point source discharging any pollutant or combination of pollutants immediately prior to such date which source is not subject to section 407 of this title, the discharge by such source shall not be a violation of this chapter if such a source applies for a permit for discharge pursuant to this section within such 180-day period.

(June 30, 1948, ch. 758, title IV, § 402, as added Oct. 18, 1972, Pub. L. 92-500, § 2, 86 Stat. 880.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1288, 1311, 1314, 1318, 1319, 1341, 1343, 1345, 1365, 1369, 1371, 1373 of this title; title 42 section 6903.

§ 1343. Ocean discharge criteria

(a) Issuance of permits

No permit under section 1342 of this title for a discharge into the territorial sea, the waters of the contiguous zone, or the oceans shall be issued, after promulgation of guidelines established under subsection (c) of this section, except in compliance with such guidelines. Prior to the promulgation of such guidelines, a permit may be issued under such section 1342 of this title if the Administrator determines it to be in the public interest.

(b) Waiver

The requirements of subsection (d) of section 1342 of this title may not be waived in the case of permits for discharges into the territorial sea.

(c) Guidelines for determining degradation of waters

(1) The Administrator shall, within one hundred and eighty days after October 18, 1972 (and from time to time thereafter), promulgate guidelines for determining the degradation of the waters of the territorial seas, the contiguous zone, and the oceans, which shall include:

(A) the effect of disposal of pollutants on human health or welfare, including but not limited to plankton, fish, shellfish, wildlife, shorelines, and beaches;

(B) the effect of disposal of pollutants on marine life including the transfer, concentration, and dispersal of pollutants or their byproducts through biological, physical, and chemical processes; changes in marine ecosystem diversity, productivity, and stability; and species and community population changes;

(C) the effect of disposal, of pollutants on esthetic, recreation, and economic values;

(D) the persistence and permanence of the effects of disposal of pollutants;

(E) the effect of the disposal of varying rates, of particular volumes and concentrations of pollutants;

(F) other possible locations and methods of disposal or recycling of pollutants including land-based alternatives; and

(G) the effect on alternate uses of the oceans, such as mineral exploitation and scientific study.

(2) In any event where insufficient information exists on any proposed discharge to make a reasonable judgment on any of the guidelines established pursuant to this subsection no permit shall be issued under section 1342 of this title.

(June 30, 1948, ch. 758, title IV, § 403, as added Oct. 18, 1972, Pub. L. 92-500, § 2, 86 Stat. 883.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1254, 1342, 1344 of this title.

§ 1344. Permits for dredged or fill material

(a) Issuance by Secretary of Army

The Secretary of the Army, acting through the Chief of Engineers, may issue permits, after notice and opportunity for public hearings for the discharge of dredged or fill material into the navigable waters at specified disposal sites.

(b) Specification for disposal sites

Subject to subsection (c) of this section, each such disposal site shall be specified for each such permit by the Secretary of the Army (1) through the application of guidelines developed by the Administrator, in conjunction with the Secretary of the Army, which guidelines shall be based upon criteria comparable to the criteria applicable to the territorial seas, the contiguous zone, and the ocean under section 1343(c) of this title, and (2) in any case where such guidelines under clause (1) alone would prohibit the specification of a site, through the application additionally of the economic impact of the site on navigation and anchorage.

(c) Denial of specifications by Administrator; hearing; findings

The Administrator is authorized to prohibit the specification (including the withdrawal of specification) of any defined area as a disposal site, and he is authorized to deny or restrict the use of any defined area for specification (including the withdrawal of specification) as a disposal site, whenever he determines, after notice and opportunity for public hearings, that the discharge of such materials into such area will have an unacceptable adverse effect on municipal water supplies, shellfish beds and fishery areas (including spawning and breeding areas), wildlife, or recreational areas. Before making such determination, the Administrator shall consult with the Secretary of the Army. The Administrator shall set forth in writing and make public his findings and his reasons for making any determination under this subsection.

(June 30, 1948, ch. 758, title IV, § 404, as added Oct. 18, 1972, Pub. L. 92-500, § 2, 86 Stat. 884.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1311, 1342 of this title.

§ 1345. Disposal of sewage sludge

(a) Permit

Notwithstanding any other provision of this chapter or of any other law, in any case where the disposal of sewage sludge resulting from the operation of a treatment works as defined in section 1292 of this title (including the removal of in-place sewage sludge from one location and its deposit at another location) would result in any pollutant from such sewage sludge entering the navigable waters, such disposal is prohibited except in accordance with a permit issued by the Administrator under this section.

(b) Issuance of permit; regulations

The Administrator shall issue regulations governing the issuance of permits for the disposal of sewage sludge subject to this section. Such regulations shall require the application to such disposal of each criterion, factor, procedure, and requirement applicable to a permit issued under section 1342 of this title, as the Administrator determines necessary to carry out the objective of this chapter.

(c) State permit program

Each State desiring to administer its own permit program for disposal of sewage sludge within its jurisdiction may do so if upon submission of such program the Administrator determines such program is adequate to carry out the objective of this chapter.

(June 30, 1948, ch. 758, title IV, § 405, as added Oct. 18, 1972, Pub. L. 92-500, § 2, 86 Stat. 884.)

SUBCHAPTER V—GENERAL PROVISIONS

§ 1361. Administration

(a) Authority of Administrator to prescribe regulations

The Administrator is authorized to prescribe such regulations as are necessary to carry out his functions under this chapter.

(b) Utilization of other agency officers and employees

The Administrator, with the consent of the head of any other agency of the United States, may utilize such officers and employees of such agency as may be found necessary to assist in carrying out the purposes of this chapter.

(c) Recordkeeping

Each recipient of financial assistance under this chapter shall keep such records as the Administrator shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate effective audit.

(d) Audit

The Administrator and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access, for the purpose of audit and examination, to any books, documents, papers, and records of the recipients that are pertinent to the grants received under this chapter.

(e) Awards for outstanding technological achievement or innovative processes, methods, or devices in waste treatment and pollution abatement programs

(1) It is the purpose of this subsection to authorize a program which will provide official recognition by the United States Government to those industrial organizations and political subdivisions of States which during the preceding year demonstrated an outstanding technological achievement or an innovative process, method, or device in their waste treatment and pollution abatement programs. The Administrator shall, in consultation with the appropriate State water pollution control agencies, establish regulations under which such recognition may be applied for and granted, except that no applicant shall be eligible for an award under this subsection if such applicant is not in total compliance with all applicable water quality requirements under this chapter, or otherwise does not have a satisfactory record with respect to environmental quality.

(2) The Administrator shall award a certificate or plaque of suitable design to each industrial organization or political subdivision which qualifies for such recognition under regulations established under this subsection.

(3) The President of the United States, the Governor of the appropriate State, the Speaker of the House of Representatives, and the President pro tempore of the Senate shall be notified of the award by the Administrator and the awarding of such recognition shall be published in the Federal Register.

(f) Detail of Environmental Protection Agency personnel to State water pollution control agencies

Upon the request of a State water pollution control agency, personnel of the Environmental Protection Agency may be detailed to such agency for the purpose of carrying out the provisions of this chapter.

(June 30, 1948, ch. 758, title V, § 501, as added Oct. 18, 1972, Pub. L. 92-500, § 2, 86 Stat. 885.)

TRANSFER OF PUBLIC HEALTH SERVICE OFFICERS

Pub. L. 89-234, § 2(b) to (k), Oct. 2, 1965, 79 Stat. 903, authorized the transfer of certain commissioned officers of the Public Health Service to classified positions in the Federal Water Pollution Control Administration, now the Environmental Protection Agency, where such transfer was requested within six months after the establishment of the Administration and made certain administrative provisions relating to pension and retirement rights of the transferees, sick leave benefits, group life insurance, and certain other miscellaneous provisions.

ENVIRONMENTAL COURT FEASIBILITY STUDY

Section 9 of Pub. L. 92-500 authorized the President, acting through the Attorney General, to study the feasibility of establishing a separate court or court system with jurisdiction over environmental matters and required him to report the results of his study, together with his recommendations, to Congress not later than one year after Oct. 18, 1972.

§ 1362. Definitions

Except as otherwise specifically provided, when used in this chapter:

(1) The term "State water pollution control agency" means the State agency designated by the Governor having responsibility for enforcing State laws relating to the abatement of pollution.

(2) The term "interstate agency" means an agency of two or more States established by or pursuant to an agreement or compact approved by the Congress, or any other agency of two or more States, having substantial powers or duties pertaining to the control of pollution as determined and approved by the Administrator.

(3) The term "State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

(4) The term "municipality" means a city, town, borough, county, parish, district, association, or other public body created by or pursuant to State law and having jurisdiction over disposal of sewage, industrial wastes, or other wastes, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under section 1288 of this title.

(5) The term "person" means an individual, corporation, partnership, association, State,

municipality, commission, or political subdivision of a State, or any interstate body.

(6) The term "pollutant" means dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water. This term does not mean (A) "sewage from vessels" within the meaning of section 1322 of this title; or (B) water, gas, or other material which is injected into a well to facilitate production of oil or gas, or water derived in association with oil or gas production and disposed of in a well, if the well used either to facilitate production or for disposal purposes is approved by authority of the State in which the well is located, and if such State determines that such injection or disposal will not result in the degradation of ground or surface water resources.

(7) The term "navigable waters" means the waters of the United States, including the territorial seas.

(8) The term "territorial seas" means the belt of the seas measured from the line of ordinary low water along that portion of the coast which is in direct contact with the open sea and the line marking the seaward limit of inland waters, and extending seaward a distance of three miles.

(9) The term "contiguous zone" means the entire zone established or to be established by the United States under article 24 of the Convention of the Territorial Sea and the Contiguous Zone.

(10) The term "ocean" means any portion of the high seas beyond the contiguous zone.

(11) The term "effluent limitation" means any restriction established by a State or the Administrator on quantities, rates, and concentrations of chemical, physical, biological, and other constituents which are discharged from point sources into navigable waters, the waters of the contiguous zone, or the ocean, including schedules of compliance.

(12) The term "discharge of a pollutant" and the term "discharge of pollutants" each means (A) any addition of any pollutant to navigable waters from any point source, (B) any addition of any pollutant to the waters of the contiguous zone or the ocean from any point source other than a vessel or other floating craft.

(13) The term "toxic pollutant" means those pollutants, or combinations of pollutants, including disease-causing agents, which after discharge and upon exposure, ingestion, inhalation or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, will, on the basis of information available to the Administrator, cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions (including malfunctions in reproduction) or physical deformations, in such organisms or their offspring.

(14) The term "point source" means any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged.

(15) The term "biological monitoring" shall mean the determination of the effects on aquatic life, including accumulation of pollutants in tissue, in receiving waters due to the discharge of pollutants (A) by techniques and procedures, including sampling of organisms representative of appropriate levels of the food chain appropriate to the volume and the physical, chemical, and biological characteristics of the effluent, and (B) at appropriate frequencies and locations.

(16) The term "discharge" when used without qualification includes a discharge of a pollutant, and a discharge of pollutants.

(17) The term "schedule of compliance" means a schedule of remedial measures including an enforceable sequence of actions or operations leading to compliance with an effluent limitation, other limitation, prohibition, or standard.

(18) The term "industrial user" means those industries identified in the Standard Industrial Classification Manual, Bureau of the Budget, 1967, as amended and supplemented, under the category of "Division D—Manufacturing" and such other classes of significant waste producers as, by regulation, the Administrator deems appropriate.

(19) The term "pollution" means the man-made or man-induced alteration of the chemical, physical, biological, and radiological integrity of water.

(June 30, 1948, ch. 758, title V, § 502, as added Oct. 18, 1972, Pub. L. 92-500, § 2, 86 Stat. 886.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1319 of this title; title 26 section 169.

§ 1363. Water Pollution Control Advisory Board

(a) Establishment; composition; terms of office

(1) There is hereby established in the Environmental Protection Agency a Water Pollution Control Advisory Board, composed of the Administrator or his designee, who shall be Chairman, and nine members appointed by the President, none of whom shall be Federal officers or employees. The appointed members, having due regard for the purposes of this chapter, shall be selected from among representatives of various State, interstate, and local governmental agencies, of public or private interests contributing to, affected by, or concerned with pollution, and of other public and private agencies, organizations, or groups demonstrating an active interest in the field of pollution prevention and control, as well as other individuals who are expert in this field.

(2)(A) Each member appointed by the President shall hold office for a term of three years, except that (i) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, and (ii) the terms of office of the members first taking office after June 30, 1956, shall expire as follows: three at the end of one year after such date, three at the end of two years after such date, and three at the end of three years after such date, as designated by the

President at the time of appointment, and (iii) the term of any member under the preceding provisions shall be extended until the date on which his successor's appointment is effective. None of the members appointed by the President shall be eligible for reappointment within one year after the end of his preceding term.

(B) The members of the Board who are not officers or employees of the United States, while attending conferences or meetings of the Board or while serving at the request of the Administrator, shall be entitled to receive compensation at a rate to be fixed by the Administrator, but not exceeding $100 per diem, including travel-time, and while away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law for persons in the Government service employed intermittently.

(b) Functions

The Board shall advise, consult with, and make recommendations to the Administrator on matters of policy relating to the activities and functions of the Administrator under this chapter.

(c) Clerical and technical assistance

Such clerical and technical assistance as may be necessary to discharge the duties of the Board shall be provided from the personnel of the Environmental Protection Agency.

(June 30, 1948, ch. 758, title V, § 503, as added Oct. 18, 1972, Pub. L. 92-500, § 2, 86 Stat. 887.)

REFERENCES IN TEXT

Travel expenses, including per diem in lieu of subsistence as authorized by law, referred to in subsec. (a)(2)(B), probably means the allowances authorized by section 5703 of Title 5, Government Organization and Employees.

CONTINUATION OF TERM OF OFFICE

Pub. L. 87-88, § 6(c), July 20, 1961, 75 Stat. 207, provided that members of the Water Pollution Control Advisory Board holding office immediately preceding July 20, 1961 were to remain in office as members of the Board as established by section 6(a) of Pub. L. 87-88 until the expiration of the terms of office for which they were originally appointed.

TERMS OF OFFICE OF MEMBERS OF WATER POLLUTION CONTROL ADVISORY BOARD

Act July 9, 1956, ch. 518, § 3, 70 Stat. 507, provided that the terms of office of members of the Water Pollution Control Advisory Board, holding office on July 9, 1956, were to terminate at the close of business on that date.

TERMINATION OF ADVISORY BOARDS

Advisory Boards in existence on Jan. 5, 1973, to terminate not later than the expiration of the two-year period following Jan. 5, 1973, unless, in the case of a Board established by the President or an officer of the Federal Government, such Board is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a Board established by the Congress, its duration is otherwise provided for by law, see sections 3(2) and 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 1364. Emergency powers

Notwithstanding any other provision of this chapter, the Administrator upon receipt of evidence that a pollution source or combination of sources is presenting an imminent and substantial endangerment to the health of persons or to the welfare of persons where such endangerment is to the livelihood of such persons, such as inability to market shellfish, may bring suit on behalf of the United States in the appropriate district court to immediately restrain any person causing or contributing to the alleged pollution to stop the discharge of pollutants causing or contributing to such pollution or to take such other action as may be necessary.

(June 30, 1948, ch. 758, title V, § 504, as added Oct. 18, 1972, Pub. L. 92-500, § 2, 86 Stat. 888.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1256, 1318 of this title.

§ 1365. Citizen suits

(a) Authorization; jurisdiction

Except as provided in subsection (b) of this section, any citizen may commence a civil action on his own behalf—

(1) against any person (including (i) the United States, and (ii) any other governmental instrumentality or agency to the extent permitted by the eleventh amendment to the Constitution) who is alleged to be in violation of (A) an effluent standard or limitation under this chapter or (B) an order issued by the Administrator or a State with respect to such a standard or limitation, or

(2) against the Administrator where there is alleged a failure of the Administrator to perform any act or duty under this chapter which is not discretionary with the Administrator.

The district courts shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce such an effluent standard or limitation, or such an order, or to order the Administrator to perform such act or duty, as the case may be, and to apply any appropriate civil penalties under section 1319(d) of this title.

(b) Notice

No action may be commenced—

(1) under subsection (a)(1) of this section—

(A) prior to sixty days after the plaintiff has given notice of the alleged violation (i) to the Administrator, (ii) to the State in which the alleged violation occurs, and (iii) to any alleged violator of the standard, limitation, or order, or

(B) if the Administrator or State has commenced and is diligently prosecuting a civil or criminal action in a court of the United States, or a State to require compliance with the standard, limitation, or order, but in any such action in a court of the United States any citizen may intervene as a matter of right.

(2) under subsection (a)(2) of this section prior to sixty days after the plaintiff has given notice of such action to the Administrator,

except that such action may be brought immediately after such notification in the case of an action under this section respecting a violation

of sections 1316 and 1317(a) of this title. Notice under this subsection shall be given in such manner as the Administrator shall prescribe by regulation.

(c) Venue; intervention by Administrator

(1) Any action respecting a violation by a discharge source of an effluent standard or limitation or an order respecting such standard or limitation may be brought under this section only in the judicial district in which such source is located.

(2) In such action under this section, the Administrator, if not a party, may intervene as a matter of right.

(d) Litigation costs

The court, in issuing any final order in any action brought pursuant to this section, may award costs of litigation (including reasonable attorney and expert witness fees) to any party, whenever the court determines such award is appropriate. The court may, if a temporary restraining order or preliminary injunction is sought, require the filing of a bond or equivalent security in accordance with the Federal Rules of Civil Procedure.

(e) Statutory or common law rights not restricted

Nothing in this section shall restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of any effluent standard or limitation or to seek any other relief (including relief against the Administrator or a State agency).

(f) Effluent standard or limitation

For purposes of this section, the term "effluent standard or limitation under this chapter" means (1) effective July 1, 1973, an unlawful act under subsection (a) of section 1311 of this title, (2) an effluent limitation or other limitation under section 1311 or 1312 of this title; (3) standard of performance under section 1316 of this title; (4) prohibition, effluent standard or pretreatment standards under section 1317 of this title; (5) certification under section 1341 of this title; or (6) a permit or condition thereof issued under section 1342 of this title, which is in effect under this chapter (including a requirement applicable by reason of section 1323 of this title).

(g) Citizen

For the purposes of this section the term "citizen" means a person or persons having an interest which is or may be adversely affected.

(h) Civil action by State Governors

A Governor of a State may commence a civil action under subsection (a) of this section, without regard to the limitations of subsection (b) of this section, against the Administrator where there is alleged a failure of the Administrator to enforce an effluent standard or limitation under this chapter the violation of which is occurring in another State and is causing an adverse effect on the public health or welfare in his State, or is causing a violation of any water quality requirement in his State.

(June 30, 1948, ch. 758, title V, § 505, as added Oct. 18, 1972, Pub. L. 92-500, § 2, 86 Stat. 888.)

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in subsec. (d), are classified generally to the Appendix to Title 28, Judiciary and Judicial Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1342 of this title.

§ 1366. Appearance

The Administrator shall request the Attorney General to appear and represent the United States in any civil or criminal action instituted under this chapter to which the Administrator is a party. Unless the Attorney General notifies the Administrator within a reasonable time, that he will appear in a civil action, attorneys who are officers or employees of the Environmental Protection Agency shall appear and represent the United States in such action.

(June 30, 1948, ch. 758, title V, § 506, as added Oct. 18, 1972, Pub. L. 92-500, § 2, 86 Stat. 889.)

§ 1367. Employee protection

(a) Discrimination against persons filing, instituting, or testifying in proceedings under this chapter prohibited

No person shall fire, or in any other way discriminate against, or cause to be fired or discriminated against, any employee or any authorized representative of employees by reason of the fact that such employee or representative has filed, instituted, or caused to be filed or instituted any proceeding under this chapter, or has testified or is about to testify in any proceeding resulting from the administration or enforcement of the provisions of this chapter.

(b) Application for review; investigation; hearing; review

Any employee or a representative of employees who believes that he has been fired or otherwise discriminated against by any person in violation of subsection (a) of this section may, within thirty days after such alleged violation occurs, apply to the Secretary of Labor for a review of such firing or alleged discrimination. A copy of the application shall be sent to such person who shall be the respondent. Upon receipt of such application, the Secretary of Labor shall cause such investigation to be made as he deems appropriate. Such investigation shall provide an opportunity for a public hearing at the request of any party to such review to enable the parties to present information relating to such alleged violation. The parties shall be given written notice of the time and place of the hearing at least five days prior to the hearing. Any such hearing shall be of record and shall be subject to section 554 of title 5. Upon receiving the report of such investigation, the Secretary of Labor shall make findings of fact. If he finds that such violation did occur, he shall issue a decision, incorporating an order therein and his findings, requiring the party committing such violation to take such affirmative action to abate the violation as the Secretary of Labor deems appropriate, including, but not limited to, the rehiring or reinstatement of the employee or representative of employees to his former position with compensation. If he finds that there was no such viola-

tion, he shall issue an order denying the application. Such order issued by the Secretary of Labor under this subparagraph shall be subject to judicial review in the same manner as orders and decisions of the Administrator are subject to judicial review under this chapter.

(c) Costs and expenses

Whenever an order is issued under this section to abate such violation, at the request of the applicant, a sum equal to the aggregate amount of all costs and expenses (including the attorney's fees), as determined by the Secretary of Labor, to have been reasonably incurred by the applicant for, or in connection with, the institution and prosecution of such proceedings, shall be assessed against the person committing such violation.

(d) Deliberate violations by employee acting without direction from his employer or his agent

This section shall have no application to any employee who, acting without direction from his employer (or his agent) deliberately violates any prohibition of effluent limitation or other limitation under section 1311 or 1312 of this title, standards of performance under section 1316 of this title, effluent standard, prohibition or pretreatment standard under section 1317 of this title, or any other prohibition or limitation established under this chapter.

(e) Investigations of employment reductions

The Administrator shall conduct continuing evaluations of potential loss or shifts of employment which may result from the issuance of any effluent limitation or order under this chapter, including, where appropriate, investigating threatened plant closures or reductions in employment allegedly resulting from such limitation or order. Any employee who is discharged or laid-off, threatened with discharge or lay-off, or otherwise discriminated against by any person because of the alleged results of any effluent limitation or order issued under this chapter, or any representative of such employee, may request the Administrator to conduct a full investigation of the matter. The Administrator shall thereupon investigate the matter and, at the request of any party, shall hold public hearings on not less than five days notice, and shall at such hearings require the parties, including the employer involved, to present information relating to the actual or potential effect of such limitation or order on employment and on any alleged discharge, lay-off, or other discrimination and the detailed reasons or justification therefor. Any such hearing shall be of record and shall be subject to section 554 of title 5. Upon receiving the report of such investigation, the Administrator shall make findings of fact as to the effect of such effluent limitation or order on employment and on the alleged discharge, lay-off, or discrimination and shall make such recommendations as he deems appropriate. Such report, findings, and recommendations shall be available to the public. Nothing in this subsection shall be construed to require or authorize the Administrator to modify or withdraw any effluent limitation or order issued under this chapter.

(June 30, 1948, ch. 758, title V, § 507, as added Oct. 18, 1972, Pub. L. 92-500, § 2, 86 Stat. 890.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1369 of this title.

§ 1368. Federal procurement

(a) Contracts with violators prohibited

No Federal agency may enter into any contract with any person, who has been convicted of any offense under section 1319(c) of this title, for the procurement of goods, materials, and services if such contract is to be performed at any facility at which the violation which gave rise to such conviction occurred, and if such facility is owned, leased, or supervised by such person. The prohibition in the preceding sentence shall continue until the Administrator certifies that the condition giving rise to such conviction has been corrected.

(b) Notification of agencies

The Administrator shall establish procedures to provide all Federal agencies with the notification necessary for the purposes of subsection (a) of this section.

(c) Omitted

(d) Exemptions

The President may exempt any contract, loan, or grant from all or part of the provisions of this section where he determines such exemption is necessary in the paramount interest of the United States and he shall notify the Congress of such exemption.

(e) Annual report to Congress

The President shall annually report to the Congress on measures taken in compliance with the purpose and intent of this section, including, but not limited to, the progress and problems associated with such compliance.

(June 30, 1948, ch. 758, title V, § 508, as added Oct. 18, 1972, Pub. L. 92-500, § 2, 86 Stat. 891.)

CODIFICATION

Subsec. (c), which authorized the President to cause to be issued, not more than 180 days after October 18, 1972, an order (1) requiring each Federal agency authorized to enter into contracts or to extend Federal assistance by way of grant, loan, or contract, to effectuate the purpose and policy of this chapter, and (2) setting forth procedures, sanctions and penalties as the President determines necessary to carry out such requirement, was omitted from the Code as executed.

ADMINISTRATION OF CHAPTER WITH RESPECT TO FEDERAL CONTRACTS, GRANTS, OR LOANS

For provisions concerning the administration of this chapter with respect to Federal contracts, grants, or loans, see Ex. Ord. No. 11738, Sept. 10, 1973, 38 F.R. 25161, set out as a note under section 1857h-4 of Title 42, The Public Health and Welfare.

§ 1369. Administrative procedure and judicial review

(a) Subpenas

(1) For purposes of obtaining information under section 1315 of this title, or carrying out section 1367(e) of this title, the Administrator may issue subpenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and he may administer oaths. Except for effluent data,

upon a showing satisfactory to the Administrator that such papers, books, documents, or information or particular part thereof, if made public, would divulge trade secrets or secret processes, the Administrator shall consider such record, report, or information or particular portion thereof confidential in accordance with the purposes of section 1905 of title 18, except that such paper, book, document, or information may be disclosed to other officers, employees, or authorized representatives of the United States concerned with carrying out this chapter, or when relevant in any proceeding under this chapter. Witnesses summoned shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. In case of contumacy or refusal to obey a subpena served upon any person under this subsection, the district court of the United States for any district in which such person is found or resides or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Administrator, to appear and produce papers, books, and documents before the Administrator, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(2) The district courts of the United States are authorized, upon application by the Administrator, to issue subpenas for attendance and testimony of witnesses and the production of relevant papers, books, and documents, for purposes of obtaining information under sections 1314(b) and (c) of this title. Any papers, books, documents, or other information or part thereof, obtained by reason of such a subpena shall be subject to the same requirements as are provided in paragraph (1) of this subsection.

(b) Review of Administrator's actions

(1) Review of the Administrator's action (A) in promulgating any standard of performance under section 1316 of this title, (B) in making any determination pursuant to section 1316(b)(1)(C) of this title, (C) in promulgating any effluent standard, prohibition, or pretreatment standard under section 1317 of this title, (D) in making any determination as to a State permit program submitted under section 1342(b) of this title, (E) in approving or promulgating any effluent limitation or other limitation under section 1311, 1312, or 1315 of this title, and (F) in issuing or denying any permit under section 1342 of this title, may be had by any interested person in the Circuit Court of Appeals of the United States for the Federal judicial district in which such person resides or transacts such business upon application by such person. Any such application shall be made within ninety days from the date of such determination, approval, promulgation, issuance or denial, or after such date only if such application is based solely on grounds which arose after such ninetieth day.

(2) Action of the Administrator with respect to which review could have been obtained under paragraph (1) of this subsection shall not be subject to judicial review in any civil or criminal proceeding for enforcement.

(c) Additional evidence

In any judicial proceeding brought under subsection (b) of this section in which review is sought of a determination under this chapter required to be made on the record after notice and opportunity for hearing, if any party applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the Administrator, the court may order such additional evidence (and evidence in rebuttal thereof) to be taken before the Administrator, in such manner and upon such terms and conditions as the court may deem proper. The Administrator may modify his findings as to the facts, or make new findings, by reason of the additional evidence so taken and he shall file such modified or new findings, and his recommendation, if any, for the modification or setting aside of his original determination, with the return of such additional evidence.

(June 30, 1948, ch. 758, title V, § 509, as added Oct. 18, 1972, Pub. L. 92-500, § 2, 86 Stat. 891, and amended Dec. 28, 1973, Pub. L. 93-207, § 1(6), 87 Stat. 906.)

AMENDMENTS

1973—Subsec. (b)(1)(C). Pub. L. 93-207 substituted "pretreatment" for "treatment".

§ 1370. State authority

Except as expressly provided in this chapter, nothing in this chapter shall (1) preclude or deny the right of any State or political subdivision thereof or interstate agency to adopt or enforce (A) any standard or limitation respecting discharges of pollutants, or (B) any requirement respecting control or abatement of pollution; except that if an effluent limitation, or other limitation, effluent standard, prohibition, pretreatment standard, or standard of performance is in effect under this chapter, such State or political subdivision or interstate agency may not adopt or enforce any effluent limitation, or other limitation, effluent standard, prohibition, pretreatment standard, or standard of performance which is less stringent than the effluent limitation, or other limitation, effluent standard, prohibition, pretreatment standard, or standard of performance under this chapter; or (2) be construed as impairing or in any manner affecting any right or jurisdiction of the States with respect to the waters (including boundary waters) of such States.

(June 30, 1948, ch. 758, title V, § 510, as added Oct. 18, 1972. Pub. L. 92-500, § 2, 86 Stat. 893.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1311 of this title.

§ 1371. Authority under other laws and regulations

(a) Impairment of authority or functions of officials and agencies; treaty provisions

This chapter shall not be construed as (1) limiting the authority or functions of any officer or agency of the United States under any other law or regulation not inconsistent with this chapter; (2) affecting or impairing the au-

thority of the Secretary of the Army (A) to maintain navigation or (B) under the Act of March 3, 1899, (30 Stat. 1112); except that any permit issued under section 1344 of this title shall be conclusive as to the effect on water quality of any discharge resulting from any activity subject to section 403 of this title, or (3) affecting or impairing the provisions of any treaty of the United States.

(b) Discharges of pollutants into navigable waters

Discharges of pollutants into the navigable waters subject to the Rivers and Harbors Act of 1910 (36 Stat. 593; 33 U.S.C. 421) and the Supervisory Harbors Act of 1888 (25 Stat. 209; 33 U.S.C. 441–451b) shall be regulated pursuant to this chapter, and not subject to such Act of 1910 and the Act of 1888 except as to effect on navigation and anchorage.

(c) Action of the Administrator deemed major Federal action; construction of the National Environmental Policy Act of 1969

(1) Except for the provision of Federal financial assistance for the purpose of assisting the construction of publicly owned treatment works as authorized by section 1281 of this title, and the issuance of a permit under section 1342 of this title for the discharge of any pollutant by a new source as defined in section 1316 of this title, no action of the Administrator taken pursuant to this chapter shall be deemed a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (83 Stat. 852) [42 U.S.C. 4321 et seq.]; and

(2) Nothing in the National Environmental Policy Act of 1969 (83 Stat. 852) shall be deemed to—

(A) authorize any Federal agency authorized to license or permit the conduct of any activity which may result in the discharge of a pollutant into the navigable waters to review any effluent limitation or other requirement established pursuant to this chapter or the adequacy of any certification under section 1341 of this title; or

(B) authorize any such agency to impose, as a condition precedent to the issuance of any license or permit, any effluent limitation other than any such limitation established pursuant to this chapter.

(d) Consideration of international water pollution control agreements

Notwithstanding this chapter or any other provision of law, the Administrator (1) shall not require any State to consider in the development of the ranking in order of priority of needs for the construction of treatment works (as defined in subchapter II of this chapter), any water pollution control agreement which may have been entered into between the United States and any other nation, and (2) shall not consider any such agreement in the approval of any such priority ranking.

(June 30, 1948, ch. 758, title V, § 511, as added Oct. 18, 1972, Pub. L. 92-500, § 2, 86 Stat. 893, and amended Jan. 2, 1974, Pub. L. 93-243, § 3, 87 Stat. 1069.)

REFERENCES IN TEXT

The Act of March 3, 1899, referred to in subsec. (a), is act Mar. 3, 1899, ch. 425, 30 Stat. 1121, which enacted sections 401, 403, 404, 406, 407, 408, 409, 411 to 416, 418, 502, 549, and 687 of this title and amended section 686 of this title. For complete classification of this Act to the Code, see Tables volume.

The Rivers and Harbors Act of 1910, referred to in subsec. (b), probably means act June 23, 1910, ch. 359, 36 Stat. 593.

The Supervisory Harbors Act of 1888, referred to in subsec. (b), probably means act June 29, 1888, ch. 496, 25 Stat. 209, which is classified generally to subchapter III (§ 441 et seq.) of chapter 9 of this title. For complete classification of this Act to the Code, see Tables volume.

The National Environmental Policy Act of 1969, referred to in subsec. (c), is Pub. L. 91-190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§ 4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables volume.

AMENDMENTS

1974—Subsec. (d). Pub. L. 93-243 added subsec. (d).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1341 of this title.

§ 1372. Labor standards

The Administrator shall take such action as may be necessary to insure that all laborers and mechanics employed by contractors or subcontractors on treatment works for which grants are made under this chapter shall be paid wages at rates not less than those prevailing for the same type of work on similar construction in the immediate locality, as determined by the Secretary of Labor, in accordance with the Davis-Bacon Act (46 Stat. 1494; 40 U.S.C., sec. 276a through 276a-5). The Secretary of Labor shall have, with respect to the labor standards specified in this subsection, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176) and section 276c of title 40.

(June 30, 1948, ch. 758, title V, § 513, as added Oct. 18, 1972, Pub. L. 92-500, § 2, 86 Stat. 894.)

REFERENCES IN TEXT

The Davis-Bacon Act, referred to in text, is act Mar. 3, 1931, ch. 411, 46 Stat. 1494, as amended, which is classified generally to sections 276a to 276a-5 of Title 40, Public Buildings, Property, and Works. For complete classification of this Act to the Code, see Short Title note set out under section 276a of Title 40 and Tables volume.

Reorganization Plan Numbered 14 of 1950, referred to in text, is Reorg. Plan No. 14 of 1950, eff. May 24, 1950, 15 F.R. 3176, 64 Stat. 1267, which is set out in the Appendix to Title 5, Government Organization and Employees.

§ 1373. Public health agency coordination

The permitting agency under section 1342 of this title shall assist the applicant for a permit under such section in coordinating the requirements of this chapter with those of the appropriate public health agencies.

(June 30, 1948, ch. 758, title V, § 514, as added Oct. 18, 1972, Pub. L. 92-500, § 2, 86 Stat. 894.)

§ 1374. Effluent Standards and Water Quality Information Advisory Committee

(a) Establishment; membership; term

(1) There is established an Effluent Standards and Water Quality Information Advisory Committee, which shall be composed of a Chairman and eight members who shall be appointed by the Administrator within sixty days after October 18, 1972.

(2) All members of the Committee shall be selected from the scientific community, qualified by education, training, and experience to provide, assess, and evaluate scientific and technical information on effluent standards and limitations.

(3) Members of the Committee shall serve for a term of four years, and may be reappointed.

(b) Action on proposed regulations

(1) No later than one hundred and eighty days prior to the date on which the Administrator is required to publish any proposed regulations required by section 1314(b) of this title, any proposed standard of performance for new sources required by section 1316 of this title, or any proposed toxic effluent standard required by section 1317 of this title, he shall transmit to the Committee a notice of intent to propose such regulations. The Chairman of the Committee within ten days after receipt of such notice may publish a notice of a public hearing by the Committee, to be held within thirty days.

(2) No later than one hundred and twenty days after receipt of such notice, the Committee shall transmit to the Administrator such scientific and technical information as is in its possession, including that presented at any public hearing, related to the subject matter contained in such notice.

(3) Information so transmitted to the Administrator shall constitute a part of the administrative record and comments on any proposed regulations or standards as information to be considered with other comments and information in making any final determinations.

(4) In preparing information for transmittal, the Committee shall avail itself of the technical and scientific services of any Federal agency, including the United States Geological Survey and any national environmental laboratories which may be established.

(c) Secretary; legal counsel; compensation

(1) The Committee shall appoint and prescribe the duties of a Secretary, and such legal counsel as it deems necessary. The Committee shall appoint such other employees as it deems necessary to exercise and fulfill its powers and responsibilities. The compensation of all employees appointed by the Committee shall be fixed in accordance with chapter 51 and subchapter III of chapter 53 of title 5.

(2) Members of the Committee shall be entitled to receive compensation at a rate to be fixed by the President but not in excess of the maximum rate of pay for grade GS-18, as provided in the General Schedule under section 5332 of title 5.

(d) Quorum; special panel

Five members of the Committee shall constitute a quorum, and official actions of the Committee shall be taken only on the affirmative vote of at least five members. A special panel composed of one or more members upon order of the Committee shall conduct any hearing authorized by this section and submit the transcript of such hearing to the entire Committee for its action thereon.

(e) Rules

The Committee is authorized to make such rules as are necessary for the orderly transaction of its business.

(June 30, 1948, ch. 758, title V, § 515, as added Oct. 18, 1972, Pub. L. 92-500, § 2, 86 Stat. 894.)

TERMINATION OF ADVISORY COMMITTEES

Advisory Committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the two-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law, see section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, set out in the Appendix to Title 5, Government Organization and Employees.

§ 1375. Reports to Congress

(a) Within ninety days following the convening of each session of Congress, the Administrator shall submit to the Congress a report, in addition to any other report required by this chapter, on measures taken toward implementing the objective of this chapter, including, but not limited to, (1) the progress and problems associated with developing comprehensive plans under section 1252 of this title, areawide plans under section 1288 of this title, basin plans under section 1289 of this title, and plans under section 1313(e) of this title; (2) a summary of actions taken and results achieved in the field of water pollution control research, experiments, studies, and related matters by the Administrator and other Federal agencies and by other persons and agencies under Federal grants or contracts; (3) the progress and problems associated with the development of effluent limitations and recommended control techniques; (4) the status of State programs, including a detailed summary of the progress obtained as compared to that planned under State program plans for development and enforcement of water quality requirements; (5) the identification and status of enforcement actions pending or completed under this chapter during the preceding year; (6) the status of State, interstate, and local pollution control programs established pursuant to, and assisted by, this chapter; (7) a summary of the results of the survey required to be taken under section 1290 of this title; (8) his activities including recommendations under sections 1259 through 1261 of this title; and (9) all reports and recommendations made by the Water Pollution Control Advisory Board.

(b)(1) The Administrator, in cooperation with the States, including water pollution control agencies and other water pollution control planning agencies, shall make (A) a detailed estimate of the cost of carrying out the provisions of this chapter; (B) a detailed estimate, biennially revised, of the cost of construction of all

needed publicly owned treatment works in all of the States and of the cost of construction of all needed publicly owned treatment works in each of the States; (C) a comprehensive study of the economic impact on affected units of government of the cost of installation of treatment facilities; and (D) a comprehensive analysis of the national requirements for and the cost of treating municipal, industrial, and other effluent to attain the water quality objectives as established by this chapter or applicable State law. The Administrator shall submit such detailed estimate and such comprehensive study of such cost to the Congress no later than February 10 of each odd-numbered year. Whenever the Administrator, pursuant to this subsection, requests and receives an estimate of cost from a State, he shall furnish copies of such estimate together with such detailed estimate to Congress.

(2) Notwithstanding the second sentence of paragraph (1) of this subsection, the Administrator shall make a preliminary detailed estimate called for by subparagraph (B) of such paragraph and shall submit such preliminary detailed estimate to the Congress no later than September 3, 1974. The Administrator shall require each State to prepare an estimate of cost for such State, and shall utilize the survey form EPA-1, O.M.B. No. 158-R0017, prepared for the 1973 detailed estimate, except that such estimate shall include all costs of compliance with section 1281(g)(2)(A) of this title and water quality standards established pursuant to section 1313 of this title, and all costs of treatment works as defined in section 1292(2) of this title, including all eligible costs of constructing sewage collection systems and correcting excessive infiltration or inflow and all eligible costs of correcting combined storm and sanitary sewer problems and treating storm water flows. The survey form shall be distributed by the Administrator to each State no later than January 31, 1974.

(June 30, 1948, ch. 758, title V, § 516, as added Oct. 18, 1972, Pub. L. 92-500, § 2, 86 Stat. 895, and amended Jan. 2, 1974, Pub. L. 93-243, § 4, 87 Stat. 1069.)

AMENDMENTS

1974—Subsec. (b). Pub. L. 93-243 designated existing paragraph as par. (1) and cls. (1) to (4) as (A) to (D), and added par. (2).

STUDY AND REPORT TO CONGRESS BY SECRETARY OF INTERIOR OF FINANCING WATER POLLUTION PREVENTION, CONTROL, AND ABATEMENT PROGRAMS

Pub. L. 91-224, title I, § 109, Apr. 3, 1970, 34 Stat. 113, directed the Secretary of the Interior to conduct a full and complete investigation and study of the feasibility of all methods of financing the cost of preventing, controlling, and abating water pollution, other than methods authorized by existing law, with results of such investigation and study to be reported to Congress no later than Dec. 31, 1970, together with the recommendations of the Secretary for financing the programs for preventing, controlling, and abating water pollution for the fiscal years beginning after fiscal year 1971, including any necessary legislation.

TERMINATION OF ADVISORY BOARDS

Advisory Boards in existence on Jan. 5, 1973, to terminate not later than the expiration of the two-year period following Jan. 5, 1973, unless, in the case of a Board established by the President or an officer of the Federal Government, such Board is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a Board established by the Congress, its duration is otherwise provided by law, see sections 3(2) and 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1254, 1285, 1290 of this title.

§ 1376. Authorization of appropriations

There are authorized to be appropriated to carry out this chapter, other than sections 1254, 1255, 1256(a), 1257, 1258, 1262, 1263, 1264, 1265, 1286, 1287, 1288(f) and (h), 1289, 1314, 1321(c), (d), (i), (l), and (k), 1324, 1325, and 1327 of this title, $250,000,000 for the fiscal year ending June 30, 1973, $300,000,000 for the fiscal year ending June 30, 1974, and $350,000,000 for the fiscal year ending June 30, 1975.

(June 30, 1948, ch. 758, title V, § 517, as added Oct. 18, 1972, Pub. L. 92-500, § 2, 86 Stat. 896.)

REFERENCES IN TEXT

Section 1264 of this title, referred to in text, was omitted from the Code as executed.

CHAPTER 27—OCEAN DUMPING

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SUBCHAPTER II—RESEARCH

1441. Monitoring and research program; reports to Congress.
1442. Research program respecting possible long-range effects of pollution, overfishing, and man-induced changes of ocean ecosystems.
(a) Secretary of Commerce.
(b) Action with other nations.
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(d) Cooperation of other departments, agencies, and independent instrumentalities.
(e) Utilization of personnel, services, and facilities; inter-agency agreements.
1443. Cooperation with public authorities, agencies, and institutions, private agencies and institutions, and individuals.
1444. Authorization of appropriations.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 1503 of this title; title 42 section 6905.

§ 1401. Congressional finding, policy, and declaration of purpose

(a) Unregulated dumping of material into ocean waters endangers human health, welfare, and amenities, and the marine environment, ecological systems, and economic potentialities.

(b) The Congress declares that it is the policy of the United States to regulate the dumping of all types of materials into ocean waters and to prevent or strictly limit the dumping into ocean waters of any material which would adversely affect human health, welfare, or amenities, or the marine environment, ecological systems, or economic potentialities.

(c) It is the purpose of this chapter to regulate (1) the transportation by any person of material from the United States and, in the case of United States vessels, aircraft, or agencies, the Transportation of material from a location outside the United States, when in either case the transportation is for the purpose of dumping the material into ocean waters, and

(2) the dumping of material transported by any person from a location outside the United States, if the dumping occurs in the territorial sea or the contiguous zone of the United States.

(Pub. L. 92-532, § 2, Oct. 23, 1972, 86 Stat. 1052; Pub. L. 93-254, § 1(1), Mar. 22, 1974, 88 Stat. 50.)

REFERENCES IN TEXT

This "chapter", referred to in text, was in the original this "Act" meaning Pub. L. 92-532, which enacted this chapter and sections 1431 to 1434 of Title 16, Conservation.

AMENDMENTS

1974—Subsec. (b). Pub. L. 93-254 deleted statement of the purpose of this chapter as being the regulation of transportation of material from the United States for dumping into ocean waters, and the dumping of material, transported from outside the United States, if the dumping occurs in ocean waters over which the United States has jurisdiction or over which it may exercise control, under accepted principles of international law, in order to protect its territory or territorial sea, now covered by subsec. (c) of this section.

Subsec. (c). Pub. L. 93-254 added subsec. (c).

EFFECTIVE DATE OF 1974 AMENDMENT

Section 2 of Pub. L. 93-254 provided in part that amendment of subsecs. (b) and (c) of this section and sections 1402, 1411, and 1412(a), other than last sentence of subsec. (a), of this title, by Pub. L. 93-254 shall become effective Mar. 22, 1974.

SHORT TITLE

Section 1 of Pub. L. 92-532 provided: "That this Act [enacting this chapter and sections 1431 to 1434 of Title 16, Conservation] may be cited as the 'Marine Protection, Research, and Sanctuaries Act of 1972'."

PREVENTION, CONTROL, AND ABATEMENT OF ENVIRONMENTAL POLLUTION AT FEDERAL FACILITIES

Ex. Ord. No. 11752, Dec. 17, 1973, 38 F.R. 34793, set out as a note under section 4331 of Title 42, The Public Health and Welfare, provides for the prevention, control, and abatement of environmental pollution at federal facilities.

§ 1402. Definitions

For the purposes of this chapter the term—

(a) "Administrator" means the Administrator of the Environmental Protection Agency.

(b) "Ocean waters" means those waters of the open seas lying seaward of the base line from which the territorial sea is measured, as provided for in the Convention on the Territorial Sea and the Contiguous Zone (15 UST 1606; TIAS 5639).

(c) "Material" means matter of any kind or description, including, but not limited to, dredged material, solid waste, incinerator residue, garbage, sewage, sewage sludge, munitions, radiological, chemical, and biological warfare agents, radioactive materials, chemicals, biological and laboratory waste, wreck or discarded equipment, rock, sand, excavation debris, and industrial, municipal, agricultural, and other waste; but such term does not mean sewage from vessels within the meaning of section 1322 of this title. Oil within the meaning of section 1321 of this title shall be included only to the extent that such oil is taken on board a vessel or aircraft for the purpose of dumping.

(d) "United States" includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, the territories and possessions of the United States, and the Trust Territory of the Pacific Islands.

(e) "Person" means any private person or entity, or any officer, employee, agent, department, agency, or instrumentality of the Federal Government, of any State or local unit of government, or of any foreign government.

(f) "Dumping" means a disposition of material: *Provided*, That it does not mean a disposition of any effluent from any outfall structure to the extent that such disposition is regulated under the provisions of the Federal Water Pollution Control Act, as amended [33 U.S.C. 1251 et seq.], under the provisions of section 407 of this title, or under the provisions of the Atomic Energy Act of 1954, as amended [42 U.S.C. 2011 et seq.], nor does it mean a routine discharge of effluent incidental to the propulsion of, or operation of motor-driven equipment on, vessels: *Provided, further*, That it does not mean the construction of any fixed structure or artificial island nor the intentional placement of any device in ocean waters or on or in the submerged land beneath such waters, for a purpose other than disposal, when such construction or such placement is otherwise regulated by Federal or State law or occurs pursuant to an authorized Federal or State program: *And Provided further*, That it does not include the deposit of oyster shells, or other materials when such deposit is made for the purpose of developing, maintaining, or harvesting fisheries resources and is otherwise regulated by Federal or State law or occurs pursuant to an authorized Federal or State program.

(g) "District court of the United States" includes the District Court of Guam, the District Court of the Virgin Islands, the District Court of Puerto Rico, the District Court of the Canal Zone, and in the case of American Samoa and the Trust Territory of the Pacific Islands, the District Court of the United States for the District of Hawaii, which court shall have jurisdiction over actions arising therein.

(h) "Secretary" means the Secretary of the Army.

(i) "Dredged material" means any material excavated or dredged from the navigable waters of the United States.

(j) "High-level radioactive waste" means the aqueous waste resulting from the operation of the first cycle solvent extraction system, or equivalent and the concentrated waste from subsequent extraction cycles, or equivalent, in a facility for reprocessing irradiated reactor fuels, or irradiated fuel from nuclear power reactors.

(k) "Transport" or "transportation" refers to the carriage and related handling of any material by a vessel, or by any other vehicle, including aircraft.

(*l*) "Convention" means the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter.

(Pub. L. 92-532, § 3, Oct. 23, 1972, 86 Stat. 1052; Pub. L. 93-254, § 1(2), Mar. 22, 1974, 88 Stat. 50.)

REFERENCES IN TEXT

This "chapter", referred to in text, was in the original this "Act" meaning Pub. L. 92-532, which enacted this chapter and sections 1431 to 1434 of Title 16, Conservation.

The Federal Water Pollution Control Act, as amended, referred to in subsec. (f), is act June 30, 1948, ch. 758, as amended generally by Pub. L. 92-500, § 2, Oct. 18, 1972, 86 Stat. 816, which is classified generally to chapter 26 (§ 1251 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1251 of this title and Tables volume.

The Atomic Energy Act of 1954, as amended, referred to in subsec. (f), is act Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 921, as amended, which is classified principally to chapter 23 (§ 2011 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of Title 42 and Tables volume.

AMENDMENTS

1974—Subsec. (c). Pub. L. 93-254, § 1(2)(A), substituted "sewage from vessels within the meaning of section 1322 of this title. Oil within the meaning of section 1321 of this title shall be included only to the extent that such oil is taken on board a vessel or aircraft for the purpose of dumping." for "oil within the meaning of section 11 of the Federal Water Pollution Control Act and does not mean sewage from vessels within the meaning of section 13 of such Act."

Subsec. (*l*). Pub. L. 93-254, § 1(2)(C), added subsec. (*l*).

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-254 effective Mar. 22, 1974, see section 2 of Pub. L. 93-254, set out in part as an Effective Date of 1974 Amendment note under section 1401 of this title.

SUBCHAPTER I—REGULATION

§ 1411. Prohibited acts

(a) Except as may be authorized by a permit issued pursuant to section 1412 or section 1413 of this title, and subject to regulations issued pursuant to section 1418 of this title,

(1) no person shall transport from the United States, and

(2) in the case of a vessel or aircraft registered in the United States or flying the United States flag or in the case of a United States department, agency, or instrumentality, no person shall transport from any location

any material for the purpose of dumping it into ocean waters.

(b) Except as may be authorized by a permit issued pursuant to section 1412 of this title, and subject to regulations issued pursuant to section 1418 of this title, no person shall dump any material transported from a location outside the United States (1) into the territorial sea of the United States, or (2) into a zone contiguous to the territorial sea of the United States, extending to a line twelve nautical miles seaward from the base line from which the breadth of the territorial sea is measured, to the extent that it may affect the territorial sea or the territory of the United States.

(Pub. L. 92-532, title I, § 101, Oct. 23, 1972, 86 Stat. 1053; Pub. L. 93-254, § 1(3), Mar. 22, 1974, 88 Stat. 51.)

AMENDMENTS

1974—Subsec. (a). Pub. L. 93-254 incorporated existing provisions in the introductory text, substituting reference to permits issued under section 1412 or section 1413 of this title for prior reference to such issuance under this subchapter; incorporated existing provisions in item designated (1); added item (2); and substituted prohibition against transportation of any material for ocean dumping for former prohibition against such dumping of any radiological, chemical, or biological warfare agent or any high-level radioactive waste, or any other material.

Subsec. (b). Pub. L. 93-254 substituted reference to permits issued under section 1412 of this title for

former reference to such issuance under this subchapter, made any ocean dumping subject to regulations issued under section 1418 of this title, and substituted prohibition against dumping of any material for former prohibition against dumping of any radiological, chemical, or biological warfare agent or any high-level radioactive waste, or any other material.

Subsec. (c). Pub. L. 93-254 deleted subsec. (c) which prohibited any officer, employee, agent, department, agency, or instrumentality of the United States from transporting from any location outside the United States any radiological, chemical, or biological warfare agent or any high-level radioactive waste, or, except as may be authorized in a permit, any other material for purpose of dumping in ocean waters, now covered in subsec. (b) of this section.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-254 effective Mar. 22, 1974, see section 2 of Pub. L. 93-254, set out in part as an Effective Date of 1974 Amendment note under section 1401 of this title.

EFFECTIVE DATE

Section 110(a) of Pub. L. 92-532 provided that: "This title [this subchapter] shall take effect six months after the date of the enactment of this Act [Oct. 23, 1972]."

SAVINGS PROVISIONS

Section 110(b) of Pub. L. 92-532 provided that: "No legal action begun, or right of action accrued, prior to the effective date of this title [this subchapter] shall be affected by any provision of this title [this subchapter]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1412 of this title.

§ 1412. Dumping permit program

(a) Environmental Protection Agency permits

Except in relation to dredged material, as provided for in section 1413 of this title, and in relation to radiological, chemical, and biological warfare agents and high-level radioactive waste, for which no permit may be issued, the Administrator may issue permits, after notice and opportunity for public hearings, for the transportation from the United States or, in the case of an agency or instrumentality of the United States, or in the case of a vessel or aircraft registered in the United States or flying the United States flag, for the transportation from a location outside the United States, of material for the purpose of dumping it into ocean waters, or for the dumping of material into the waters described in section 1411(b) of this title, where the Administrator determines that such dumping will not unreasonably degrade or endanger human health, welfare, or amenities, or the marine environment, ecological systems, or economic potentialities. The Administrator shall establish and apply criteria for reviewing and evaluating such permit applications, and, in establishing or revising such criteria, shall consider, but not be limited in his consideration to, the following :

(A) The need for the proposed dumping.

(B) The effect of such dumping on human health and welfare, including economic, esthetic, and recreational values.

(C) The effect of such dumping on fisheries resources, plankton, fish, shellfish, wildlife, shore lines and beaches.

(D) The effect of such dumping on marine ecosystems, particularly with respect to—

(i) the transfer, concentration, and dispersion of such material and its byproducts through biological, physical, and chemical processes,

(ii) potential changes in marine ecosystem diversity, productivity, and stability, and

(iii) species and community population dynamics.

(E) The persistence and permanence of the effects of the dumping.

(F) The effect of dumping particular volumes and concentrations of such materials.

(G) Appropriate locations and methods of disposal or recycling, including land-based alternatives and the probable impact of requiring use of such alternate locations or methods upon considerations affecting the public interest.

(H) The effect on alternate uses of oceans, such as scientific study, fishing, and other living resource exploitation, and non-living resource exploitation.

(I) In designating recommended sites, the Administrator shall utilize wherever feasible locations beyond the edge of the Continental Shelf.

In establishing or revising such criteria, the Administrator shall consult with Federal, State, and local officials, and interested members of the general public, as may appear appropriate to the Administrator. With respect to such criteria as may affect the civil works program of the Department of the Army, the Administrator shall also consult with the Secretary. In reviewing applications for permits, the Administrator shall make such provision for consultation with interested Federal and State agencies as he deems useful or necessary. No permit shall be issued for a dumping of material which will violate applicable water quality standards. To the extent that he may do so without relaxing the requirements of this subchapter, the Administrator, in establishing or revising such criteria, shall apply the standards and criteria binding upon the United States under the Convention, including its Annexes.

(b) Permit categories

The Administrator may establish and issue various categories of permits, including the general permits described in section 1414(c) of this title.

(c) Sites and times for dumping

The Administrator may, considering the criteria established pursuant to subsection (a) of this section, designate recommended sites or times for dumping and, when he finds it necessary to protect critical areas, shall, after consultation with the Secretary, also designate sites or times within which certain materials may not be dumped.

(d) Fish wastes

No permit is required under this subchapter for the transportation for dumping or the dumping of fish wastes, except when deposited in harbors or other protected or enclosed coastal waters, or where the Administrator finds that such deposits could endanger health, the environment, or ecological systems in a specific

location. Where the Administrator makes such a finding, such material may be deposited only as authorized by a permit issued by the Administrator under this section.

(e) Foreign State permits; acceptance

In the case of transportation of material, by a vessel or aircraft registered in the United States or flying the United States flag, from a location in a foreign State Party to the Convention, a permit issued pursuant to the authority of that foreign State Party, in accordance with Convention requirements, and which otherwise could have been issued pursuant to subsection (a) of this section, shall be accepted, for the purposes of this subchapter, as if it were issued by the Administrator under the authority of this section.

(Pub. L. 92-532, title I, § 102, Oct. 23, 1972, 86 Stat. 1054; Pub. L. 93-254, § 1(4), Mar. 22, 1974, 88 Stat. 51.)

AMENDMENTS

1974—Subsec. (a). Pub. L. 93-254, § 1(4)(A), substituted "for which no permit may be issued," for "as provided for in section 1411 of this title," inserted "or in the case of a vessel or aircraft registered in the United States or flying the United States flag," after "instrumentality of the United States," and required the Administrator to apply the standards and criteria binding upon the United States under the Convention, including its Annexes.

Subsec. (e). Pub. L. 93-254, § 1(4)(B), added subsec. (e).

EFFECTIVE DATE OF 1974 AMENDMENT

Section 2 of Pub. L. 93-254 provided in part that: "The amendments made by subparagraph 1(4)(A)(iii) and paragraph 1(4)(B) of this Act [enacting provision of subsec. (a) respecting application of standards by Administrator and subsec. (e) of this section] shall become effective on the date that the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matters enters into force for the United States."

Amendment of subsec. (a) of this section, other than last sentence, by Pub. L. 93-254 effective Mar. 22, 1974, see section 2 of Pub. L. 93-254, set out in part as an Effective Date of 1974 Amendment note under section 1401 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1411, 1413 to 1415 of this title.

§ 1413. Dumping permit program for dredged material

(a) Issuance by Secretary of the Army

Subject to the provisions of subsections (b), (c), and (d) of this section, the Secretary may issue permits, after notice and opportunity for public hearings, for the transportation of dredged material for the purpose of dumping it into ocean waters, where the Secretary determines that the dumping will not unreasonably degrade or endanger human health, welfare, or amenities, or the marine environment, ecological systems, or economic potentialities.

(b) Independent determination of need for dumping, other methods of disposal, and appropriate locations

In making the determination required by subsection (a) of this section, the Secretary shall apply those criteria, established pursuant to section 1412(a) of this title, relating to the effects of the dumping. Based upon an evaluation of the potential effect of a permit denial on navigation, economic and industrial development, and foreign and domestic commerce of the United States, the Secretary shall make an independent determination as to the need for the dumping. The Secretary shall also make an independent determination as to other possible methods of disposal and as to appropriate locations for the dumping. In considering appropriate locations, he shall, to the extent feasible, utilize the recommended sites designated by the Administrator pursuant to section 1412(c) of this title.

(c) Disagreement of Administrator with determination of Secretary of the Army

Prior to issuing any permit under this section, the Secretary shall first notify the Administrator of his intention to do so. In any case in which the Administrator disagrees with the determination of the Secretary as to compliance with the criteria established pursuant to section 1412(a) of this title relating to the effects of the dumping or with the restrictions established pursuant to section 1412(c) of this title relating to critical areas, the determination of the Administrator shall prevail. Unless the Administrator grants a waiver pursuant to subsection (d) of this section, the Secretary shall not issue a permit which does not comply with such criteria and with such restrictions.

(d) Waiver of requirements

If, in any case, the Secretary finds that, in the disposition of dredged material, there is no economically feasible method or site available other than a dumping site the utilization of which would result in non-compliance with the criteria established pursuant to section 1412(a) of this title relating to the effects of dumping or with the restrictions established pursuant to section 1412(c) of this title relating to critical areas, he shall so certify and request a waiver from the Administrator of the specific requirements involved. Within thirty days of the receipt of the waiver request, unless the Administrator finds that the dumping of the material will result in an unacceptably adverse impact on municipal water supplies, shell-fish beds, wildlife, fisheries (including spawning and breeding areas), or recreational areas, he shall grant the waiver.

(e) Federal projects involving dredged material

In connection with Federal projects involving dredged material, the Secretary may, in lieu of the permit procedure, issue regulations which will require the application to such projects of the same criteria, other factors to be evaluated, the same procedures, and the same requirements which apply to the issuance of permits under subsections (a), (b), (c), and (d) of this section.

(Pub. L. 92-532, title I, § 103, Oct. 23, 1972, 86 Stat. 1055.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1411, 1412, 1414, 1415 of this title.

§ 1414. Permit conditions

(a) Designated and included conditions

Permits issued under this subchapter shall designate and include (1) the type of material authorized to be transported for dumping or to be dumped; (2) the amount of material authorized to be transported for dumping or to be dumped; (3) the location where such transport for dumping will be terminated or where such dumping will occur; (4) the length of time for which the permits are valid and their expiration date; (5) any special provisions deemed necessary by the Administrator or the Secretary, as the case may be, after consultation with the Secretary of the Department in which the Coast Guard is operating, for the monitoring and surveillance of the transportation or dumping; and (6) such other matters as the Administrator or the Secretary, as the case may be, deems appropriate.

(b) Permit processing fees; reporting requirements

The Administrator or the Secretary, as the case may be, may prescribe such processing fees for permits and such reporting requirements for actions taken pursuant to permits issued by him under this subchapter as he deems appropriate.

(c) General permits

Consistent with the requirements of sections 1412 and 1413 of this title, but in lieu of a requirement for specific permits in such case, the Administrator or the Secretary, as the case may be, may issue general permits for the transportation for dumping, or dumping, or both, of specified materials or classes of materials for which he may issue permits, which he determines will have a minimal adverse environmental impact.

(d) Review

Any permit issued under this subchapter shall be reviewed periodically and, if appropriate, revised. The Administrator or the Secretary, as the case may be, may limit or deny the issuance of permits, or he may alter or revoke partially or entirely the terms of permits issued by him under this subchapter, for the transportation for dumping, or for the dumping, or both, of specified materials or classes of materials, where he finds that such materials cannot be dumped consistently with the criteria and other factors required to be applied in evaluating the permit application. No action shall be taken under this subsection unless the affected person or permittee shall have been given notice and opportunity for a hearing on such action as proposed.

(e) Information for review and evaluation of applications

The Administrator or the Secretary, as the case may be, shall require an applicant for a permit under this subchapter to provide such information as he may consider necessary to review and evaluate such application.

(f) Public information

Information received by the Administrator or the Secretary, as the case may be, as a part of any application or in connection with any permit granted under this subchapter shall be available to the public as a matter of public record, at every stage of the proceeding. The final determination of the Administrator or the Secretary, as the case may be, shall be likewise available.

(g) Display of issued permits

A copy of any permit issued under this subchapter shall be placed in a conspicuous place in the vessel which will be used for the transportation or dumping authorized by such permit, and an additional copy shall be furnished by the issuing official to the Secretary of the department in which the Coast Guard is operating, or its designee.

(Pub. L. 92-532, title I, § 104, Oct. 23, 1972, 86 Stat. 1056.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1412 of this title.

§ 1415. Penalties

(a) Assessment of civil penalty by Administrator; remission or mitigation; court action for appropriate relief

Any person who violates any provision of this subchapter, or of the regulations promulgated under this subchapter, or a permit issued under this subchapter shall be liable to a civil penalty of not more than $50,000 for each violation to be assessed by the Administrator. No penalty shall be assessed until the person charged shall have been given notice and an opportunity for a hearing of such violation. In determining the amount of the penalty, the gravity of the violation, prior violations, and the demonstrated good faith of the person charged in attempting to achieve rapid compliance after notification of a violation shall be considered by said Administrator. For good cause shown, the Administrator may remit or mitigate such penalty. Upon failure of the offending party to pay the penalty, the Administrator may request the Attorney General to commence an action in the appropriate district court of the United States for such relief as may be appropriate.

(b) Criminal penalties

In addition to any action which may be brought under subsection (a) of this section, a person who knowingly violates this subchapter, regulations promulgated under this subchapter, or a permit issued under this subchapter shall be fined not more than $50,000, or imprisoned for not more than one year, or both.

(c) Separate offenses

For the purpose of imposing civil penalties and criminal fines under this section, each day of a continuing violation shall constitute a separate offense as shall the dumping from each of several vessels, or other sources.

(d) Injunctive relief

The Attorney General or his delegate may bring actions for equitable relief to enjoin an imminent or continuing violation of this subchapter, of regulations promulgated under this subchapter, or of permits issued under this subchapter, and the district courts of the United States shall have jurisdiction to grant such relief as the equities of the case may require.

(e) Liability of vessels in rem

A vessel, except a public vessel within the meaning of section 13 of the Federal Water Pollution Control Act, as amended, used in a violation, shall be liable in rem for any civil penalty assessed or criminal fine imposed and may be proceeded against in any district court of the United States having jurisdiction thereof; but no vessel shall be liable unless it shall appear that one or more of the owners, or bareboat charterers, was at the time of the violation a consenting party or privy to such violation.

(f) Revocation and suspension of permits

If the provisions of any permit issued under section 1412 or 1413 of this title are violated, the Administrator or the Secretary, as the case may be, may revoke the permit or may suspend the permit for a specified period of time. No permit shall be revoked or suspended unless the permittee shall have been given notice and opportunity for a hearing on such violation and proposed suspension or revocation.

(g) Civil suits by private persons

(1) Except as provided in paragraph (2) of this subsection any person may commence a civil suit on his own behalf to enjoin any person, including the United States and any other governmental instrumentality or agency (to the extent permitted by the eleventh amendment to the Constitution), who is alleged to be in violation of any prohibition, limitation, criterion, or permit established or issued by or under this subchapter. The district courts shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce such prohibition, limitation, criterion, or permit, as the case may be.

(2) No action may be commenced—

(A) prior to sixty days after notice of the violation has been given to the Administrator or to the Secretary, and to any alleged violator of the prohibition, limitation, criterion, or permit; or

(B) if the Attorney General has commenced and is diligently prosecuting a civil action in a court of the United States to require compliance with the prohibition, limitation, criterion, or permit; or

(C) if the Administrator has commenced action to impose a penalty pursuant to subsection (a) of this section, or if the Administrator, or the Secretary, has initiated permit revocation or suspension proceedings under subsection (f) of this section; or

(D) if the United States has commenced and is diligently prosecuting a criminal action in a court of the United States or a State to redress a violation of this subchapter.

(3)(A) Any suit under this subsection may be brought in the judicial district in which the violation occurs.

(B) In any such suit under this subsection in which the United States is not a party, the Attorney General, at the request of the Administrator or Secretary, may intervene on behalf of the United States as a matter of right.

(4) The court, in issuing any final order in any suit brought pursuant to paragraph (1) of this subsection may award costs of litigation (including reasonable attorney and expert witness fees) to any party, whenever the court determines such award is appropriate.

(5) The injunctive relief provided by this subsection shall not restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of any standard or limitation or to seek any other relief (including relief against the Administrator, the Secretary, or a State agency).

(h) Emergencies

No person shall be subject to a civil penalty or to a criminal fine or imprisonment for dumping materials from a vessel if such materials are dumped in an emergency to safeguard life at sea. Any such emergency dumping shall be reported to the Administrator under such conditions as he may prescribe.

(Pub. L. 92-532, title I, § 105, Oct. 23, 1972, 86 Stat. 1057.)

REFERENCES IN TEXT

Section 13 of the Federal Water Pollution Control Act, referred to in subsec. (e), is section 13 of act June 30, 1948, ch. 758, as added by act Apr. 3, 1970, Pub. L. 91-224, title I, § 102, 84 Stat. 100, which was classified to as section 1163 of this title and was superseded by Pub. L. 92-500, Oct. 18, 1972, 86 Stat. 816. See section 1322 of this title.

§ 1416. Relationship to other laws

(a) Voiding of preexisting licenses

After the effective date of this subchapter, all licenses, permits, and authorizations other than those issued pursuant to this subchapter shall be void and of no legal effect, to the extent that they purport to authorize any activity regulated by this subchapter, and whether issued before or after the effective date of this subchapter.

(b) Actions under authority of Rivers and Harbors Act

The provisions of subsection (a) of this section shall not apply to actions taken before the effective date of this subchapter under the authority of the Rivers and Harbors Act of 1899 (30 Stat. 1151), as amended (33 U.S.C. 401 et seq.).

(c) Impairment of navigation

Prior to issuing any permit under this subchapter, if it appears to the Administrator that the disposition of material, other than dredged material, may adversely affect navigation in the territorial sea of the United States, or in the approaches to any harbor of the United States, or may create an artificial island on the Outer Continental Shelf, the Administrator shall consult with the Secretary and no permit shall be issued if the Secretary determines that navigation will be unreasonably impaired.

(d) Consistent State programs

After the effective date of this subchapter, no State shall adopt or enforce any rule or regulation relating to any activity regulated by this subchapter. Any State may, however, propose to the Administrator criteria relating to the dumping of materials into ocean waters within its jurisdiction, or into other ocean waters to the extent that such dumping may affect waters within the jurisdiction of such State, and if the Administrator determines, after

notice and opportunity for hearing, that the proposed criteria are not inconsistent with the purposes of this subchapter, may adopt those criteria and may issue regulations to implement such criteria. Such determination shall be made by the Administrator within one hundred and twenty days of receipt of the proposed criteria. For the purposes of this subsection, the term "State" means any State, interstate or regional authority, Federal territory or Commonwealth or the District of Columbia.

(e) Existing conservation programs not affected

Nothing in this subchapter shall be deemed to affect in any manner or to any extent any provision of the Fish and Wildlife Coordination Act as amended (16 U.S.C. 661-666c).

(Pub. L. 92-532, title I, § 106, Oct. 23, 1972, 86 Stat. 1058.)

REFERENCES IN TEXT

The effective date of this subchapter, referred to in subsecs. (a), (b), and (d), means the effective date of title I of Pub. L. 92-532. See section 110(a) of Pub. L. 92-532, set out as an Effective Date note under section 1411 of this title.

The Rivers and Harbors Act of 1899, referred to in subsec. (b), is act Mar. 3, 1899, ch. 425, 30 Stat. 1151, which enacted sections 401, 403, 404, 406 to 409, 411 to 416, 418, 502, 549, 686, and 687 of this title. For complete classification of this Act to the Code, see Tables volume.

The Fish and Wildlife Coordination Act referred to in subsec. (e), is act Mar. 10, 1934, ch. 55, 48 Stat. 401, as amended, which enacted sections 661 to 666c of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 661 of Title 16 and Tables volume.

§ 1417. Enforcement

(a) Utilization of other departments, agencies, and instrumentalities

The Administrator or the Secretary, as the case may be, may, whenever appropriate, utilize by agreement, the personnel, services and facilities of other Federal departments, agencies, and instrumentalities, or State agencies or instrumentalities, whether on a reimbursable or a nonreimbursable basis, in carrying out his responsibilities under this subchapter.

(b) Delegation of review and evaluation authority

The Administrator or the Secretary may delegate responsibility and authority for reviewing and evaluating permit applications, including the decision as to whether a permit will be issued, to an officer of his agency, or he may delegate, by agreement, such responsibility and authority to the heads of other Federal departments or agencies, whether on a reimbursable or nonreimbursable basis.

(c) Surveillance and other enforcement activity

The Secretary of the department in which the Coast Guard is operating shall conduct surveillance and other appropriate enforcement activity to prevent unlawful transportation of material for dumping, or unlawful dumping. Such enforcement activity shall include, but not be limited to, enforcement of regulations issued by him pursuant to section 1418 of this title, relating to safe transportation, handling, carriage, storage, and stowage. The Secretary of the Department in which the Coast Guard is operating shall supply to the Administrator and to the Attorney General, as appropriate, such information of enforcement activities and such evidentiary material assembled as they may require in carrying out their duties relative to penalty assessments, criminal prosecutions, or other actions involving litigation pursuant to the provisions of this subchapter.

(Pub. L. 92-532, title I, § 107, Oct. 23, 1972, 86 Stat. 1059.)

§ 1418. Regulations

In carrying out the responsibilities and authority conferred by this subchapter, the Administrator, the Secretary, and the Secretary of the department in which the Coast Guard is operating are authorized to issue such regulations as they may deem appropriate.

(Pub. L. 92-532, title I, § 108, Oct. 23, 1972, 86 Stat. 1059.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1411, 1417 of this title.

§ 1419. International cooperation

The Secretary of State, in consultation with the Administrator, shall seek effective international action and cooperation to insure protection of the marine environment, and may, for this purpose, formulate, present, or support specific proposals in the United Nations and other component international organizations for the development of appropriate international rules and regulations in support of the policy of this chapter.

(Pub. L. 92-532, title I, § 109, Oct. 23, 1972, 86 Stat. 1060.)

REFERENCES IN TEXT

This "chapter", referred to in text, was in the original this "Act" meaning Pub. L. 92-532, which enacted this chapter and sections 1431 to 1434 of Title 16, Conservation.

§ 1420. Authorization of appropriations

There are hereby authorized to be appropriated not to exceed $3,600,000 for fiscal year 1973, not to exceed $5,500,000 for each of the fiscal years 1974 and 1975, not to exceed $5,300,000 for fiscal year 1976, not to exceed $1,325,000 for the transition period (July 1 through September 30, 1976), and not to exceed $4,800,000 for fiscal year 1977, for the purposes and administration of this subchapter, and for succeeding fiscal years only such sums as the Congress may authorize by law.

(Pub. L. 92-532, title I, § 111, Oct. 23, 1972, 86 Stat. 1060; Pub. L. 93-472, Oct. 26, 1974, 88 Stat. 1430; Pub. L. 94-62, § 1, July 25, 1975, 89 Stat. 303; Pub. L. 94-326, § 1, June 30, 1976, 90 Stat. 725.)

AMENDMENTS

1976—Pub. L. 94-326 added provision authorizing to be appropriated not to exceed $4,800,000 for fiscal year 1977.

1975—Pub. L. 94-62 substituted "not to exceed $5,500,000 for each of the fiscal years 1974 and 1975" for "and not to exceed $5,500,000 for fiscal years 1974 and 1975", and added provisions authorizing appropriation of an amount not to exceed $5,300,000 for fiscal

year 1976, and not to exceed $1,325,000 for the transition period (July 1 through Sept. 30, 1976).

1974—Pub. L. 93-472 substituted "fiscal years 1974 and 1975," for "fiscal year 1974,".

§ 1421. Annual report to Congress

The Administrator, the Secretary, and the Secretary of the department in which the Coast Guard is operating shall each individually report annually, on or before March 1 of each year, with the first report to be made on or before June 30, 1973 to the Congress, on his administration of this subchapter, including recommendations for additional legislation if deemed necessary.

(Pub. L. 92-532, title I, § 112, Oct. 23, 1972, 86 Stat. 1060; Pub. L. 94-326, § 2, June 30, 1976, 90 Stat. 725.)

AMENDMENTS

1976—Pub. L. 94-326 substituted provision that the Administrator, the Secretary, and the Secretary of the department in which the Coast Guard is operating shall each individually report, for provision that the Administrator shall report and substituted "March 1 of each year" for "June 30 of each year".

SUBCHAPTER II—RESEARCH

§ 1441. Monitoring and research program; reports to Congress

The Secretary of Commerce, in coordination with the Secretary of the Department in which the Coast Guard is operating and with the Administrator shall, within six months of October 23, 1972, initiate a comprehensive and continuing program of monitoring and research regarding the effects of the dumping of material into ocean waters or other coastal waters where the tide ebbs and flows or into the Great Lakes or their connecting waters and shall report from time to time, not less frequently than annually, his findings (including an evaluation of the short-term ecological effects and the social and economic factors involved) to the Congress.

(Pub. L. 92-532, title II, § 201, Oct. 23, 1972, 86 Stat. 1060.)

§ 1442. Research program respecting possible long-range effects of pollution, overfishing, and man-induced changes of ocean ecosystems

(a) Secretary of Commerce

The Secretary of Commerce, in consultation with other appropriate Federal departments, agencies, and instrumentalities shall, within six months of October 23, 1972, initiate a comprehensive and continuing program of research with respect to the possible long-range effects of pollution, overfishing, and man-induced changes of ocean ecosystems. In carrying out such research, the Secretary of Commerce shall take into account such factors as existing and proposed international policies affecting oceanic problems, economic considerations involved in both the protection and the use of the oceans, possible alternatives to existing programs, and ways in which the health of the oceans may best be preserved for the benefit of succeeding generations of mankind.

(b) Action with other nations

In carrying out his responsibilities under this section, the Secretary of Commerce, under the foreign policy guidance of the President and pursuant to international agreements and treaties made by the President with the advice and consent of the Senate, may act alone or in conjunction with any other nation or group of nations, and shall make known the results of his activities by such channels of communication as may appear appropriate.

(c) Annual report to Congress

In March of each year, the Secretary of Commerce shall report to the Congress on the results of activities undertaken by him pursuant to this section during the previous fiscal year.

(d) Cooperation of other departments, agencies, and independent instrumentalities

Each department, agency, and independent instrumentality of the Federal Government is authorized and directed to cooperate with the Secretary of Commerce in carrying out the purposes of this section and, to the extent permitted by law, to furnish such information as may be requested.

(e) Utilization of personnel, services, and facilities; inter-agency agreements

The Secretary of Commerce, in carrying out his responsibilities under this section, shall, to the extent feasible utilize the personnel, services, and facilities of other Federal departments, agencies, and instrumentalities (including those of the Coast Guard for monitoring purposes), and is authorized to enter into appropriate inter-agency agreements to accomplish this action.

(Pub. L. 92-532, title II, § 202, Oct. 23, 1972, 86 Stat. 1060; Pub. L. 94-62, § 2, July 25, 1975, 89 Stat. 303.)

AMENDMENTS

1975—Subsec. (c). Pub. L. 94-62 substituted "March" for "January".

§ 1443. Cooperation with public authorities, agencies, and institutions, private agencies and institutions, and individuals

The Secretary of Commerce shall conduct and encourage, cooperate with, and render financial and other assistance to appropriate public (whether Federal, State, interstate, or local) authorities, agencies, and institutions, private agencies and institutions, and individuals in the conduct of, and to promote the coordination of, research, investigations, experiments, training, demonstrations, surveys, and studies for the purpose of determining means of minimizing or ending all dumping of materials within five years of the effective date of this Act.

(Pub. L. 92-532, title II, § 203, Oct. 23, 1972, 86 Stat. 1061.)

REFERENCES IN TEXT

The effective date of this Act, referred to in text, probably means Oct. 23, 1972, the date of enactment of Pub. L. 92-532, which enacted this chapter.

§ 1444. Authorization of appropriations

There are authorized to be appropriated for the first fiscal year after October 23, 1972, and for the next two fiscal years thereafter such sums as may be necessary to carry out this subchapter, but the sums appropriated for any

such fiscal year may not exceed $6,000,000. There are authorized to be appropriated not to exceed $1,500,000 for the transition period (July 1 through September 30, 1976), and not to exceed $5,600,000 for fiscal year 1977.

(Pub. L. 92-532, title II, § 204, Oct. 23, 1972, 86 Stat. 1061; Pub. L. 94-62, § 3, July 25, 1975, 89 Stat. 303; Pub. L. 94-326, § 3, June 30, 1976, 90 Stat. 725.)

AMENDMENTS

1976—Pub. L. 94-326 added provision authorizing to be appropriated not to exceed $5,600,000 for fiscal year 1977.

1975—Pub. L. 94-62 added provision authorizing the appropriation of an amount not to exceed $1,500,000 for the transition period (July 1, through Sept. 30, 1976).

CHAPTER 28—OIL POLLUTION CASUALTIES ON THE HIGH SEAS: UNITED STATES INTERVENTION

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1471. Definitions.
1472. Grave and imminent danger from oil pollution casualties to coastline or related interests of United States; Federal nonliability for Federal preventive measures on the high seas.
1473. List of Federal interests directly threatened or affected.
1474. Federal intervention actions.
1475. Consultation procedure.
1476. Emergencies.
1477. Reasonable measures; considerations.
1478. Personal, flag state, and foreign state considerations.
1479. Federal liability for unreasonable damages; jurisdiction.
1480. Notification by Secretary of State.
1481. Violations; penalties.
1482. Experts and arbitrators; nomination.
1483. Foreign Government ships; immunity.
1484. Interpretation and administration; other right, duty, privilege, or immunity and other remedy unaffected.
1485. Rules and regulations.
1486. Revolving fund for Federal actions and activities.
1487. Effective date.

§ 1471. Definitions

As used in this chapter—

(1) "ship" means—

(A) any seagoing vessel of any type whatsoever, and

(B) any floating craft, except an installation or device engaged in the exploration and exploitation of the resources of the seabed and the ocean floor and the subsoil thereof;

(2) "oil" means crude oil, fuel oil, diesel oil, and lubricating oil;

(3) "convention" means the International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties, 1969;

(4) "Secretary" means the Secretary of the department in which the Coast Guard is operating; and

(5) "United States" means the States, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(Pub. L. 93-248, § 2, Feb. 5, 1974, 88 Stat. 8.)

SHORT TITLE

Section 1 of Pub. L. 93-248 provided: "That this Act [which enacted this chapter] may be cited as the 'Intervention on the High Seas Act'."

§ 1472. Grave and imminent danger from oil pollution casualties to coastline or related interests of United States; Federal nonliability for Federal preventive measures on the high seas

Whenever a ship collision, stranding, or other incident of navigation or other occurrence on board a ship or external to it resulting in material damage or imminent threat of material damage to the ship or her cargo creates, as determined by the Secretary, a grave and imminent danger to the coastline or related interests of the United States from pollution or threat of pollution of the sea by oil which may reasonably be expected to result in major harmful consequences, the Secretary may, except as provided for in section 1479 of this title, without liability for any damage to the owners or operators of the ship, to her cargo or crew, or to underwriters or other parties interested therein, take measures on the high seas, in accordance with the provisions of the Convention and this chapter, to prevent, mitigate, or eliminate that danger.

(Pub. L. 93-248, § 3, Feb. 5, 1974, 88 Stat. 8.)

SECTION REFERRED TO IN OTHER SECTIONS

Ths section is referred to in sections 1474, 1479 of this title.

§ 1473. List of Federal interests directly threatened or affected

In determining whether there is grave and imminent danger of major harmful consequences to the coastline or related interests of the United States, the Secretary shall consider the interests of the United States directly threatened or affected including but not limited to, fish, shellfish, and other living marine resources, wildlife, coastal zone and estuarine activities, and public and private shorelines and beaches.

(Pub. L. 93-248, § 4, Feb. 5, 1974, 88 Stat. 9.)

§ 1474. Federal intervention actions

Upon a determination under section 1472 of this title of a grave and imminent danger to the coastline or related interests of the United States, the Secretary may—

(1) coordinate and direct all public and private efforts directed at the removal or elimination of the threatened pollution damage;

(2) directly or indirectly undertake the whole or any part of any salvage or other action he could require or direct under subsection (1) of this section; and

(3) remove, and, if necessary, destroy the ship and cargo which is the source of the danger.

(Pub. L. 93-248, § 5, Feb. 5, 1974, 88 Stat. 9.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1475, 1486 of this title.

§ 1475. Consultation procedure

Before taking any measure under section 1474 of this title, the Secretary shall—

(1) consult, through the Secretary of State, with other countries affected by the marine casualty, and particularly with the flag country of any ship involved;

(2) notify without delay the Administrator of the Environmental Protection Agency and any other persons known to the Secretary, or of whom he later becomes aware, who have interests which can reasonably be expected to be affected by any proposed measures; and

(3) consider any views submitted in response to the consultation or notification required by subsections (1) and (2) of this section.

(Pub. L. 93-248, § 6, Feb. 5, 1974, 88 Stat. 9.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1476 of this title.

§ 1476. Emergencies

In cases of extreme urgency requiring measures to be taken immediately, the Secretary may take those measures rendered necessary by the urgency of the situation without the prior consultation or notification as required by section 1475 of this title or without the continuation of consultations already begun.

(Pub. L. 93-248, § 7, Feb. 5, 1974, 88 Stat. 9.)

§ 1477. Reasonable measures; considerations

(a) Measures directed or conducted under this chapter shall be proportionate to the damage, actual or threatened, to the coastline or related interests of the United States and may not go beyond what is reasonably necessary to prevent, mitigate, or eliminate that damage.

(b) In considering whether measures are proportionate to the damage the Secretary shall, among other things, consider—

(1) the extent and probability of imminent damage if those measures are not taken;

(2) the likelihood of effectiveness of those measures; and

(3) the extent of the damage which may be caused by those measures.

(Pub. L. 93-248, § 8, Feb. 5, 1974, 88 Stat. 9.)

§ 1478. Personal, flag state, and foreign state considerations

In the direction and conduct of measures under this chapter the Secretary shall use his best endeavors to—

(1) assure the avoidance of risk to human life;

(2) render all possible aid to distressed persons, including facilitating repatriation of ships' crews; and

(3) not unnecessarily interfere with rights and interests of others, including the flag state of any ship involved, other foreign states threatened by damage, and persons otherwise concerned.

(Pub. L. 93-248, § 9, Feb. 5, 1974, 88 Stat. 9.)

§ 1479. Federal liability for unreasonable damages; jurisdiction

(a) The United States shall be obliged to pay compensation to the extent of the damage caused by measures which exceed those reasonably necessary to achieve the end mentioned in section 1472 of this title.

(b) Actions against the United States seeking compensation for any excessive measures may be brought in the United States Court of Claims, in any district court of the United States, and in those courts enumerated in section 460 of title 28. For purposes of this chapter, American Samoa shall be included within the judicial district of the District Court of the United States for the District of Hawaii, and the Trust Territory of the Pacific Islands shall be included within the judicial districts of both the District Court of the United States for the District of Hawaii and the District Court of Guam.

(Pub. L. 93-248, § 10, Feb. 5, 1974, 88 Stat. 10.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1472 of this title.

§ 1480. Notification by Secretary of State

The Secretary of State shall notify without delay foreign states concerned, the Secretary-General of the Inter-Governmental Maritime Consultative Organization, and persons affected by measures taken under this chapter.

(Pub. L. 93-248, § 11, Feb. 5, 1974, 88 Stat. 10.)

§ 1481. Violations; penalties

(a) Any person who—

(1) willfully violates a provision of this chapter or a regulation issued thereunder; or

(2) willfully refuses or fails to comply with any lawful order or direction given pursuant to this chapter; or

(3) willfully obstructs any person who is acting in compliance with an order or direction under this chapter, shall be fined not more than $10,000 or imprisoned not more than one year, or both.

(b) In a criminal proceeding for an offense under paragraph (1) or (2) of subsection (a) of this section it shall be a defense for the accused to prove that he used all due diligence to comply with any order or direction that he had reasonable cause to believe that compliance would have resulted in serious risk to human life.

(Pub. L. 93-248, § 12, Feb. 5, 1974, 88 Stat. 10.)

§ 1482. Experts and arbitrators; nomination

(a) The Secretary, in consultation with the Secretary of State and the Administrator of the Environmental Protection Agency, may nominate individuals to the list of experts provided for in article III of the convention.

(b) The Secretary of State, in consultation with the Secretary, shall designate or nominate, as appropriate and necessary, the negotiators, conciliators, or arbitrators provided for by the convention and the annexes thereto.

(Pub. L. 93-248, § 13, Feb. 5, 1974, 88 Stat. 10.)

§ 1483. Foreign Government ships; immunity

No measures may be taken under authority of this chapter against any warship or other ship owned or operated by a country and used, for the time being, only on Government noncommercial service.

(Pub. L. 93-248, § 14, Feb. 5, 1974, 88 Stat. 10.)

§ 1484. Interpretation and administration; other right, duty, privilege, or immunity and other remedy unaffected

This chapter shall be interpreted and administered in a manner consistent with the convention and other international law. Except as specifically provided, nothing in this chapter may be interpreted to prejudice any otherwise applicable right, duty, privilege, or immunity or deprive any country or person of any remedy otherwise applicable.

(Pub. L. 93-248, § 15, Feb. 5, 1974, 88 Stat. 10.)

§ 1485. Rules and regulations

The Secretary may issue reasonable rules and regulations which he considers appropriate and necessary for the effective implementation of this chapter.

(Pub. L. 93-248, § 16, Feb. 5, 1974, 88 Stat. 10.)

§ 1486. Revolving fund for Federal actions and activities

The revolving fund established under section 1321(k) of this title shall be available to the Secretary for Federal actions and activities under section 1474 of this title.

(Pub. L. 93-248, § 17, Feb. 5, 1974, 88 Stat. 10.)

§ 1487. Effective date

This chapter shall be effective upon February 5, 1974, or upon the date the convention becomes effective as to the United States, whichever is later.

(Pub. L. 93-248, § 18, Feb. 5, 1974, 88 Stat. 10.)

REFERENCES IN TEXT

The date the convention became effective as to the United States, referred to in text, is May 6, 1975.

CHAPTER 29—DEEPWATER PORTS

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§ 1501. Congressional declaration of policy

(a) It is declared to be the purposes of the Congress in this chapter to—

(1) authorize and regulate the location, ownership, construction, and operation of deepwater ports in waters beyond the territorial limits of the United States;

(2) provide for the protection of the marine and coastal environment to prevent or minimize any adverse impact which might occur as a consequence of the development of such ports;

(3) protect the interests of the United States and those of adjacent coastal States in the location, construction, and operation of deepwater ports; and

(4) protect the rights and responsibilities of States and communities to regulate growth, determine land use, and otherwise protect the environment in accordance with law.

(b) The Congress declares that nothing in this chapter shall be construed to affect the legal status of the high seas, the superjacent airspace, or the seabed and subsoil, including the Continental Shelf.

(Pub. L. 93-627, § 2, Jan. 3, 1975, 88 Stat. 2126.)

SHORT TITLE

Section 1 of Pub. L. 93-627 provided: "That this Act [which enacted this chapter and amended section 1333(a)(2) of Title 43, Public Lands] may be cited as the 'Deepwater Port Act of 1974'."

§ 1502. Definitions

As used in this chapter, unless the context otherwise requires, the term—

(1) "adjacent coastal State" means any coastal State which (A) would be directly connected by pipeline to a deepwater port, as proposed in an application; (B) would be located within 15 miles of any such proposed deepwater port; or (C) is designated by the Secretary in accordance with section 1508(a)(2) of this title;

(2) "affiliate" means any entity owned or controlled by, any person who owns or controls, or any entity which is under common ownership or control with an applicant, licensee, or any person required to be disclosed pursuant to section 1504(c)(2)(A) or (B) of this title;

(3) "antitrust laws" includes the Act of July 2, 1890, as amended, the Act of October 15, 1914, as amended, the Federal Trade Commission Act (15 U.S.C. 41 et seq.), and sections 73 and 74 of the Act of August 27, 1894, as amended;

(4) "application" means any application submitted under this chapter (A) for a license for the ownership, construction, and operation of a deepwater port; (B) for transfer of any such license; or (C) for any substantial change in any of the conditions and provisions of any such license;

(5) "citizen of the United States" means any person who is a United States citizen by law, birth, or naturalization, any State, any agency of a State or a group of States, or any corporation, partnership, or association organized under the laws of any State which has as its president or other executive officer and as its chairman of the board of directors, or holder of a similar office, a person who is a United States citizen by law, birth or naturalization and which has no more of its directors who are not United States citizens by law, birth or naturalization than constitute a minority of the number required for a quorum necessary to conduct the business of the board;

(6) "coastal environment" means the navigable waters (including the lands therein and thereunder) and the adjacent shorelines[1] including waters therein and thereunder). The term includes transitional and intertidal areas, bays, lagoons, salt marshes, estuaries, and beaches; the fish, wildlife and other living resources thereof; and the recreational and scenic values of such lands, waters and resources;

(7) "coastal State" means any State of the United States in or bordering on the Atlantic, Pacific, or Arctic Oceans, or the Gulf of Mexico;

(8) "construction" means the supervising, inspection, actual building, and all other activities incidental to the building, repairing, or expanding of a deepwater port or any of its components, including, but not limited to, pile driving and bulkheading, and alterations, modifications, or additions to the deepwater port;

(9) "control" means the power, directly or indirectly, to determine the policy, business practices, or decisionmaking process of another person, whether by stock or other ownership interest, by representation on a board of directors or similar body, by contract or other agreement with stockholders or others, or otherwise;

(10) "deepwater port" means any fixed or floating manmade structures other than a vessel, or any group of such structures, located beyond the territorial sea and off the coast of the United States and which are used or intended for use as a port or terminal for the loading or unloading and further handling of oil for transportation to any State, except as otherwise provided in section 1522 of this title. The term includes all associated components and equipment, including pipelines, pumping stations, service platforms, mooring buoys, and similar appurtenances to the extent they are located seaward of the high water mark. A deepwater port shall be considered a "new source" for purposes of the Clean Air Act, as amended [42 U.S.C. 1857 et seq.], and the Federal Water Pollution Control Act, as amended [33 U.S.C. 1251 et seq.];

(11) "Governor" means the Governor of a State or the person designated by State law to exercise the powers granted to the Governor pursuant to this chapter;

(12) "licensee" means a citizen of the United States holding a valid license for the ownership, construction, and operation of a deepwater port that was issued, transferred, or renewed pursuant to this chapter;

(13) "marine environment" includes the coastal environment, waters of the contiguous zone, and waters of the high seas; the fish, wildlife, and other living resources of such waters; and the recreational and scenic values of such waters and resources;

(14) "oil" means petroleum, crude oil, and any substance refined from petroleum or crude oil;

(15) "person" includes an individual, a public or private corporation, a partnership or other association, or a government entity;

(16) "safety zone" means the safety zone established around a deepwater port as determined by the Secretary in accordance with section 1509(d) of this title;

(17) "Secretary" means the Secretary of Transportation;

(18) "State" includes each of the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the

[1] So in original. An opening parenthesis probably should appear here.

territories and possessions of the United States; and

(19) "vessel" means every description of watercraft or other artificial contrivance used as a means of transportation on or through the water.

(Pub. L. 93-627, § 3, Jan. 3, 1975, 88 Stat. 2127.)

REFERENCES IN TEXT

The Act of July 2, 1890, as amended, referred to in par. (3), is act July 2, 1890, ch. 647, 26 Stat. 209, as amended, known as the Sherman Act, which is classified to sections 1 to 7 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 1 of Title 15 and Tables volume.

The Act of October 15, 1914, as amended, referred to in par. (3), is act Oct. 15, 1914, ch. 323, 38 Stat. 730, as amended, known as the Clayton Act, and is classified generally to sections 12, 13, 14 to 19, 20, 21, and 22 to 27 of Title 15, Commerce and Trade, and sections 52 and 53 of Title 29, Labor. For further details and complete classification of this Act to the Code, see References in Text note set out under section 12 of Title 15 and Tables volume.

The Federal Trade Commission Act, referred to in par. (3), is act Sept. 26, 1914, ch. 311, 38 Stat. 717, as amended, which is classified generally to subchapter I (§ 41 et seq.) of chapter 2 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see section 58 of Title 15 and Tables volume.

Sections 73 and 74 of the Act of August 27, 1894, as amended, referred to in par. (3) are classified to sections 8 and 9, respectively, of Title 15.

The Clean Air Act, as amended, referred to in par. (10), is act July 14, 1955, ch. 360, as amended generally by Pub. L. 88-206, Dec. 17, 1963, 77 Stat. 392, which is classified generally to chapter 15B (§ 1857 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1857 of Title 42 and Tables volume.

The Federal Water Pollution Control Act, as amended, referred to in par. (10), is act June 30, 1948, ch. 758, as amended generally by Pub. L. 92-500, § 2, Oct. 18, 1972, 86 Stat. 816, which is classified generally to chapter 26 (§ 1251 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1251 of this title and Tables volume.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 16 section 1453.

§ 1503. License for ownership, construction, and operation of deepwater port

(a) Requirement; restrictions on utilization of deepwater port

No person may engage in the ownership, construction, or operation of a deepwater port except in accordance with a license issued pursuant to this chapter. No person may transport or otherwise transfer any oil between a deepwater port and the United States unless such port has been so licensed and the license is in force. A deepwater port, licensed pursuant to the provisions of this chapter, may not be utilized—

(1) for the loading and unloading of commodities or materials (other than oil) transported from the United States, other than materials to be used in the construction, maintenance, or operation of the high seas oil port, to be used as ship supplies, including bunkering for vessels utilizing the high seas oil port,

(2) for the transshipment of commodities or materials, to the United States, other than oil,

(3) except in cases where the Secretary otherwise by rule provides, for the transshipment of oil, destined for locations outside the United States.

(b) Issuance, transfer, amendment, or renewal

The Secretary is authorized, upon application and in accordance with the provisions of this chapter, to issue, transfer, amend, or renew a license for the ownership, construction, and operation of a deepwater port.

(c) Conditions for issuance

The Secretary may issue a license in accordance with the provisions of this chapter if—

(1) he determines that the applicant is financially responsible and will meet the requirements of section 1517(*l*) of this title;

(2) he determines that the applicant can and will comply with applicable laws, regulations, and license conditions;

(3) he determines that the construction and operation of the deepwater port will be in the national interest and consistent with national security and other national policy goals and objectives, including energy sufficiency and environmental quality;

(4) he determines that the deepwater port will not unreasonably interfere with international navigation or other reasonable uses of the high seas, as defined by treaty, convention, or customary international law;

(5) he determines, in accordance with the environmental review criteria established pursuant to section 1505 of this title, that the applicant has demonstrated that the deepwater port will be constructed and operated using best available technology, so as to prevent or minimize adverse impact on the marine environment;

(6) he has not been informed, within 45 days of the last public hearing on a proposed license for a designated application area, by the Administrator of the Environmental Protection Agency that the deepwater port will not conform with all applicable provisions of the Clean Air Act, as amended [42 U.S.C. 1857 et seq.], the Federal Water Pollution Control Act, as amended [33 U.S.C. 1251 et seq.], or the Marine Protection, Research and Sanctuaries Act, as amended [33 U.S.C. 1401 et seq.];

(7) he has received the opinions of the Federal Trade Commission and the Attorney General, pursuant to section 1506 of this title, as to whether issuance of the license would adversely affect competition, restrain trade, promote monopolization, or otherwise create a situation in contravention of the antitrust laws;

(8) he has consulted with the Secretary of the Army, the Secretary of State, and the Secretary of Defense, to determine their views on the adequacy of the application, and its effect on programs within their respective jurisdictions;

(9) the Governor of the adjacent coastal State of States, pursuant to section 1508 of this title, approves, or is presumed to approve, issuance of the license; and

(10) the adjacent coastal State to which the deepwater port is to be directly connected by pipeline has developed, or is making, at the time the application is submitted, reasonable progress, as determined in accordance with section 1508(c) of this title, toward developing, an approved coastal zone management program pursuant to the Coastal Zone Management Act of 1972 [16 U.S.C. 1451 et seq.].

(d) Application for license subject to examination and comparison of economic, social, and environmental effects of deepwater port facility and deep draft channel and harbor; finality of determination

If an application is made under this chapter for a license to construct a deepwater port facility off the coast of a State, and a port of the State which will be directly connected by pipeline with such deepwater port, on the date of such application—

(1) has existing plans for construction of a deep draft channel and harbor; and

(2) has either (A) an active study by the Secretary of the Army relating to the construction of a deep draft channel and harbor, or (B) a pending application for a permit under section 403 of this title for such construction; and

(3) applies to the Secretary for a determination under this section within 30 days of the date of the license application;

the Secretary shall not issue a license under this chapter until he has examined and compared the economic, social, and environmental effects of the construction and operation of the deepwater port with the economic, social and environmental effects of the construction, expansion, deepening, and operation of such State port, and has determined which project best serves the national interest or that both developments are warranted. The Secretary's determination shall be discretionary and nonreviewable.

(e) Additional conditions; removal requirements, waiver; Outer Continental Shelf Lands Act applicable to utilization of components upon waiver of removal requirements

(1) In issuing a license for the ownership, construction, and operation of a deepwater port, the Secretary shall prescribe any conditions which he deems necessary to carry out the provisions of this chapter, or which are otherwise required by any Federal department or agency pursuant to the terms of this chapter.

(2) No license shall be issued, transferred, or renewed under this chapter unless the licensee or transferee first agrees in writing that (A) there will be no substantial change from the plans, operational systems, and methods, procedures, and safeguards set forth in his application, as approved, without prior approval in writing from the Secretary; and (B) he will comply with any condition the Secretary may prescribe in accordance with the provisions of this chapter.

(3) The Secretary shall establish such bonding requirements or other assurances as he deems necessary to assure that, upon the revocation or termination of a license, the licensee will remove all components of the deepwater port. In the case of components lying in the subsoil below the seabed, the Secretary is authorized to waive the removal requirements if he finds that such removal is not otherwise necessary and that the remaining components do not constitute any threat to navigation or to the environment. At the request of the licensee, the Secretary, after consultation with the Secretary of the Interior, is authorized to waive the removal requirement as to any components which he determines may be utilized in connection with the transportation of oil, natural gas, or other minerals, pursuant to a lease granted under the provisions of the Outer Continental Shelf Lands Act [43 U.S.C. 1331 et seq.], after which waiver the utilization of such components shall be governed by the terms of the Outer Continental Shelf Lands Act.

(f) Transfer

Upon application, licenses issued under this chapter may be transferred if the Secretary determines that such transfer is in the public interest and that the transferee meets the requirements of this chapter and the prerequisites to issuance under subsection (c) of this section.

(g) Eligible citizens

Any citizen of the United States who otherwise qualifies under the terms of this chapter shall be eligible to be issued a license for the ownership, construction, and operation of a deepwater port.

(h) Term and renewal

Licenses issued under this chapter shall be for a term of not to exceed 20 years. Each licensee shall have a preferential right to renew his license subject to the requirements of subsection (c) of this section, upon such conditions and for such term, not to exceed an additional 10 years upon each renewal, as the Secretary determines to be reasonable and appropriate.

(Pub. L. 93-627, § 4, Jan. 3, 1975, 88 Stat. 2128.)

REFERENCES IN TEXT

The Clean Air Act, as amended, referred to in subsec. (c)(6), is act July 14, 1955, ch. 360, as amended generally by Pub. L. 88-206, Dec. 17, 1963, 77 Stat. 392, which is classified generally to chapter 15B (§ 1857 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1857 of Title 42 and Tables volume.

The Federal Water Pollution Control Act, as amended, referred to in subsec. (c)(6), is act June 30, 1948, ch. 758, as amended generally by Pub. L. 92-500, § 2, Oct. 18, 1972, 86 Stat. 816, which is classified generally to chapter 26 (§ 1251 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1251 of this title and Tables volume.

The Marine Protection, Research and Sanctuaries Act, referred to subsec. (c)(6), probably means Pub. L. 92-532, Oct. 23, 1972, 86 Stat. 1052, known as the Marine Protection, Research, and Sanctuaries Act of 1972, which is classified principally to chapter 27 (§ 1401 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1401 of this title and Tables volume.

The antitrust laws, referred to in subsec. (c)(7), include the laws specified in section 1502(3) of this title.

The Coastal Zone Management Act of 1972, referred to in subsec. (c)(10), is title III of Pub. L. 89-454, as added by Pub. L. 92-583, Oct. 27, 1972, 86 Stat. 1280, which is classified generally to chapter 33 (§ 1451 et seq.) of Title 16, Conservation. For complete classifica-

tion of this Act to the Code, see Short Title note set out under section 1451 of Title 16 and Tables volume.

The Outer Continental Shelf Lands Act, referred to in subsec. (e)(3), is act Aug. 7, 1953, ch. 345, § 2, 67 Stat. 462, as amended, which is classified generally to subchapter III (§ 1331 et seq.) of chapter 29 of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1331 of Title 43 and Tables volume.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1506 of this title; title 16 section 1453.

§ 1504. Procedure

(a) Regulations; issuance, amendment, or rescission; scope

The Secretary shall, as soon as practicable after January 3, 1975, and after consultation with other Federal agencies, issue regulations to carry out the purposes and provisions of this chapter in accordance with the provisions of section 553 of title 5, without regard to subsection (a) thereof. Such regulations shall pertain to, but need not be limited to, application, issuance, transfer, renewal, suspension, and termination of licenses. Such regulations shall provide for full consultation and cooperation with all other interested Federal agencies and departments and with any potentially affected coastal State, and for consideration of the views of any interested members of the general public. The Secretary is further authorized, consistent with the purposes and provisions of this chapter, to amend or rescind any such regulation.

(b) Additional regulations; criteria for site evaluation and preconstruction testing

The Secretary, in consultation with the Secretary of the Interior and the Administrator of the National Oceanic and Atmospheric Administration, shall, as soon as practicable after January 3, 1975, prescribe regulations relating to those activities involved in site evaluation and preconstruction testing at potential deepwater port locations that may (1) adversely affect the environment; (2) interfere with authorized uses of the Outer Continental Shelf; or (3) pose a threat to human health and welfare. Such activity may thenceforth not be undertaken except in accordance with regulations prescribed pursuant to this subsection. Such regulations shall be consistent with the purposes of this chapter.

(c) Plans; submittal to Secretary of Transportation; publication in Federal Register; application contents

(1) Any person making an application under this chapter shall submit detailed plans to the Secretary. Within 21 days after the receipt of an application, the Secretary shall determine whether the application appears to contain all of the information required by paragraph (2) hereof. If the Secretary determines that such information appears to be contained in the application, the Secretary shall, no later than 5 days after making such a determination, publish notice of the application and a summary of the plans in the Federal Register. If the Secretary determines that all of the required information does not appear to be contained in the application, the Secretary shall notify the applicant and take no further action with respect to the application until such deficiencies have been remedied.

(2) Each application shall include such financial, technical, and other information as the Secretary deems necessary or appropriate. Such information shall include, but need not be limited to—

(A) the name, address, citizenship, telephone number, and the ownership interest in the applicant, of each person having any ownership interest in the applicant of greater than 3 per centum;

(B) to the extent feasible, the name, address, citizenship, and telephone number of any person with whom the applicant has made, or proposes to make, a significant contract for the construction or operation of the deepwater port and a copy of any such contract;

(C) the name, address, citizenship, and telephone number of each affiliate of the applicant and of any person required to be disclosed pursuant to subparagraphs (A) or (B) of this paragraph, together with a description of the manner in which such affiliate is associated with the applicant or any person required to be disclosed under subparagraph (A) or (B) of this paragraph;

(D) the proposed location and capacity of the deepwater port, including all components thereof;

(E) the type and design of all components of the deepwater port and any storage facilities associated with the deepwater port;

(F) with respect to construction in phases, a detailed description of each phase, including anticipated dates of completion for each of the specific components thereof;

(G) the location and capacity of existing and proposed storage facilities and pipelines which will store or transport oil transported through the deepwater port, to the extent known by the applicant or any person required to be disclosed pursuant to subparagraphs (A), (B), or (C) of this paragraph;

(H) with respect to any existing and proposed refineries which will receive oil transported through the deepwater port, the location and capacity of each such refinery and the anticipated volume of such oil to be refined by each such refinery, to the extent known by the applicant or any person required to be disclosed pursuant to subparagraphs (A), (B), or (C) of this paragraph;

(I) the financial and technical capabilities of the applicant to construct or operate the deepwater port;

(J) other qualifications of the applicant to hold a license under this chapter;

(K) a description of procedures to be used in constructing, operating, and maintaining the deepwater port, including systems of oil spill prevention, containment, and cleanup; and

(L) such other information as may be required by the Secretary to determine the environmental impact of the proposed deepwater port.

(d) Application area; publication in Federal Register; definition of "application area"; submission of other applications; notice of intent and submission of completed applications; denial of pending application prior to consideration of other untimely applications

(1) At the time notice of an application is published pursuant to subsection (c) of this section, the Secretary shall publish a description in the Federal Register of an application area encompassing the deepwater port site proposed by such application and within which construction of the proposed deepwater port would eliminate, at the time such application was submitted, the need for any other deepwater port within that application area.

(2) As used in this section, "application area" means any reasonable geographical area within which a deepwater port may be constructed and operated. Such application area shall not exceed a circular zone, the center of which is the principal point of loading and unloading at the port, and the radius of which is the distance from such point to the high water mark of the nearest adjacent coastal State.

(3) The Secretary shall accompany such publication with a call for submission of any other applications for licenses for the ownership, construction, and operation of a deepwater port within the designated application area. Persons intending to file applications for such license shall submit a notice of intent to file an application with the Secretary not later than 60 days after the publication of notice pursuant to subsection (c) of this section and shall submit the completed application no later than 90 days after publication of such notice. The Secretary shall publish notice of any such application received in accordance with subsection (c) of this section. No application for a license for the ownership, construction, and operation of a deepwater port within the designated application area for which a notice of intent to file was received after such 60-day period, or which is received after such 90-day period has elapsed, shall be considered until the application pending with respect to such application area have been denied pursuant to this chapter.

(e) Recommendations to Secretary of Transportation; application for all Federal authorizations; copies of application to Federal agencies and departments with jurisdiction; recommendation of approval or disapproval and of manner of amendment to comply with laws or regulations

(1) Not later than 30 days after January 3, 1975, the Secretary of the Interior, the Administrator of the Environmental Protection Agency, the Chief of Engineers of the United States Army Corps of Engineers, the Administrator of the National Oceanic and Atmospheric Administration, and the heads of any other Federal department or agencies having expertise concerning, or jurisdiction over, any aspect of the construction or operation of deepwater ports shall transmit to the Secretary written comments as to their expertise or statutory responsibilities pursuant to this chapter or any other Federal law.

(2) An application filed with the Secretary shall constitute an application for all Federal authorizations required for ownership, construction, and operation of a deepwater port. At the time notice of any application is published pursuant to subsection (c) of this section, the Secretary shall forward a copy of such application to those Federal agencies and departments with jurisdiction over any aspect of such ownership, construction, or operation for comment, review, or recommendation as to conditions and for such other action as may be required by law. Each agency or department involved shall review the application and, based upon legal considerations within its area of responsibility, recommend to the Secretary, the approval or disapproval of the application not later than 45 days after the last public hearing on a proposed license for a designated application area. In any case in which the agency or department recommends disapproval, it shall set forth in detail the manner in which the application does not comply with any law or regulation within its area of responsibility and shall notify the Secretary how the application may be amended so as to bring it into compliance with the law or regulation involved.

(f) Environmental impact statement for single application area; criteria

For all timely applications covering a single application area, the Secretary, in cooperation with other involved Federal agencies and departments, shall, pursuant to section 4332(2)(C) of title 42, prepare a single, detailed environmental impact statement, which shall fulfill the requirement of all Federal agencies in carrying out their responsibilities pursuant to this chapter to prepare an environmental impact statement. In preparing such statement the Secretary shall consider the criteria established under section 1505 of this title.

(g) Public notice and hearings; evidentiary hearing in District of Columbia; decision of Secretary based on evidentiary record; consolidation of hearings

A license may be issued, transferred, or renewed only after public notice and public hearings in accordance with this subsection. At least one such public hearing shall be held in each adjacent coastal State. Any interested person may present relevant material at any hearing. After hearings in each adjacent coastal State are concluded if the Secretary determines that there exists one or more specific and material factual issues which may be resolved by a formal evidentiary hearing, at least one adjudicatory hearing shall be held in accordance with the provisions of section 554 of title 5 in the District of Columbia. The record developed in any such adjudicatory hearing shall be basis for the Secretary's decision to approve or deny a license. Hearings held pursuant to this subsection shall be consolidated insofar as practicable with hearings held by other agencies. All public hearings on all applications for any designated application area shall be consolidated and shall be concluded not later than 240 days after notice of the initial application has been published pursuant to subsection (c) of this section.

(h) Nonrefundable application fee; processing costs; State fees; "land-based facilities directly related to a deepwater port facility" defined; fair market rental value, advance payment

(1) Each person applying for a license pursuant to this chapter shall remit to the Secretary at the time the application is filed a nonrefund-

able application fee established by regulation by the Secretary. In addition, an applicant shall also reimburse the United States and the appropriate adjacent coastal State for any additional costs incurred in processing an application.

(2) Notwithstanding any other provision of this chapter, an adjacent coastal State may fix reasonable fees for the use of a deepwater port facility, and such State and any other State in which land-based facilities directly related to a deepwater port facility are located may set reasonable fees for the use of such land-based facilities. Fees may be fixed under authority of this paragraph as compensation for any economic cost attributable to the construction and operation of such deepwater port and such land-based facilities, which cannot be recovered under other authority of such State or political subdivision thereof, including, but not limited to, ad valorem taxes, and for environmental and administrative costs attributable to the construction and operation of such deepwater port and such land-based facilities. Fees under this paragraph shall not exceed such economic, environmental, and administrative costs of such State. Such fees shall be subject to the approval of the Secretary. As used in this paragraph, the term "land-based facilities directly related to a deepwater port facility" means the onshore tank farm and pipelines connecting such tank farm to the deepwater port facility.

(3) A licensee shall pay annually in advance the fair market rental value (as determined by the Secretary of the Interior) of the subsoil and seabed of the Outer Continental Shelf of the United States to be utilized by the deepwater port, including the fair market rental value of the right-of-way necessary for the pipeline segment of the port located on such subsoil and seabed.

(i) Application approval; period for determination; priorities; criteria for determination of application best serving national interest

(1) The Secretary shall approve or deny any application for a designated application area submitted pursuant to this chapter not later than 90 days after the last public hearing on a proposed license for that area.

(2) In the event more than one application is submitted for an application area, the Secretary, unless one of the proposed deepwater ports clearly best serves the national interest, shall issue a license according to the following order of priorities:

(A) to an adjacent coastal State (or combination of States), any political subdivision thereof, or agency or instrumentality, including a wholly owned corporation of any such government;

(B) to a person who is neither (i) engaged in producing, refining, or marketing oil, nor (ii) an affiliate of any person who is engaged in producing, refining, or marketing oil or an affiliate of any such affiliate;

(C) to any other person.

(3) In determining whether any one proposed deepwater port clearly best serves the national interest, the Secretary shall consider the following factors:

(A) the degree to which the proposed deepwater ports affect the environment, as determined under criteria established pursuant to section 1505 of this title;

(B) any significant differences between anticipated completion dates for the proposed deepwater ports; and

(C) any differences in costs of construction and operation of the proposed deepwater ports, to the extent that such differential may significantly affect the ultimate cost of oil to the consumer.

(Pub. L. 93-627, § 5, Jan. 3, 1975, 88 Stat. 2131.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1503, 1505, 1508, 1509, 1513 of this title.

§ 1505. Environmental review criteria

(a) Establishment; evaluation of proposed deepwater ports

The Secretary, in accordance with the recommendations of the Administrator of the Environmental Protection Agency and the Administrator of the National Oceanic and Atmospheric Administration and after consultation with any other Federal departments and agencies having jurisdiction over any aspect of the construction or operation of a deepwater port, shall establish, as soon as practicable after January 3, 1975, environmental review criteria consistent with the National Environmental Policy Act [42 U.S.C. 4321 et seq.]. Such criteria shall be used to evaluate a deepwater port as proposed in an application, including—

(1) the effect on the marine environment;

(2) the effect on oceanographic currents and wave patterns;

(3) the effect on alternate uses of the oceans and navigable waters, such as scientific study, fishing, and exploitation of other living and nonliving resources;

(4) the potential dangers to a deepwater port from waves, winds, weather, and geological conditions, and the steps which can be taken to protect against or minimize such dangers;

(5) effects of land-based developments related to deepwater port development;

(6) the effect on human health and welfare; and

(7) such other considerations as the Secretary deems necessary or appropriate.

(b) Review and revision

The Secretary shall periodically review and, whenever necessary, revise in the same manner as originally developed, criteria established pursuant to subsection (a) of this section.

(c) Concurrent development of criteria and regulations

Criteria established pursuant to this section shall be developed concurrently with the regulations in subsection (a) of section 1504 of this title and in accordance with the provisions of that subsection.

(Pub. L. 93-627, § 6, Jan. 3, 1975, 88 Stat. 2135.)

REFERENCES IN TEXT

The National Environmental Policy Act, referred to in subsec. (a), is Pub. L. 91-190, § 2, Jan. 1970, 83 Stat. 852, as amended, which is classified generally to chap-

ter 55 (§ 4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables volume.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1503, 1504 of this title.

§ 1506. Antitrust review

(a) Opinions of Attorney General and Federal Trade Commission; defense to judicial proceedings, license inadmissible

The Secretary shall not issue, transfer, or renew any license pursuant to section 1503 of this title unless he has received the opinions of the Attorney General of the United States and the Federal Trade Commission as to whether such action would adversely affect competition, restrain trade, promote monopolization, or otherwise create a situation in contravention of the antitrust laws. The issuance of a license under this chapter shall not be admissible in any way as a defense to any civil or criminal action for violation of the antitrust laws of the United States, nor shall it in any way modify or abridge any private right of action under such laws.

(b) Applications; submittal to Attorney General and Federal Trade Commission for preparation of reports to Secretary of Transportation; antitrust laws unaffected

(1) Whenever any application for issuance, transfer, substantial change in, or renewal of any license is received, the Secretary shall transmit promptly to the Attorney General and the Federal Trade Commission a complete copy of such application. Within 45 days following the last public hearing, the Attorney General and the Federal Trade Commission shall each prepare and submit to the Secretary a report assessing the competitive effects which may result from issuance of the proposed license and the opinions described in subsection (a) of this section. If either the Attorney General or the Federal Trade Commission, or both, fails to file such views within such period, the Secretary shall proceed as if he had received such views.

(2) Nothing in this section shall be construed to bar the Attorney General or the Federal Trade Commission from challenging any anticompetitive situation involved in the ownership, construction, or operation of a deepwater port.

(3) Nothing contained in this section shall impair, amend, broaden or modify any of the antitrust laws.

(Pub. L. 93-627, § 7, Jan. 3, 1975, 88 Stat. 2135.)

REFERENCES IN TEXT

The antitrust laws, referred to in text, include the laws specified in section 1502(3) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1503 of this title.

§ 1507. Common carrier status; discrimination prohibition; enforcement, suspension, or termination proceedings

(a) For the purpose of chapter 39 of title 18 (18 U.S.C. §§ 831-837), and part I of the Interstate Commerce Act (49 U.S.C. §§ 1-27), a deepwater port and storage facilities serviced directly by such deepwater port shall be subject to regulation as a common carrier in accordance with the Interstate Commerce Act, as amended.

(b) A licensee under this chapter shall accept, transport, or convey without discrimination all oil delivered to the deepwater port with respect to which its license is issued. Whenever the Secretary has reason to believe that a licensee is not operating a deepwater port, any storage facility or component thereof, in compliance with its obligations as a common carrier, the Secretary shall commence an appropriate proceeding before the Interstate Commerce Commission or he shall request the Attorney General to take appropriate steps to enforce such obligation and, where appropriate, to secure the imposition of appropriate sanctions. The Secretary may, in addition, proceed as provided in section 1511 of this title to suspend or terminate the license of any person so involved.

(Pub. L. 93-627, § 8, Jan. 3, 1975, 88 Stat. 2136.)

REFERENCES IN TEXT

The Interstate Commerce Act, referred to in subsec. (a), is act Feb. 4, 1887, ch. 104, 24 Stat. 379, as amended, which is classified generally to chapters 1 (§ 1 et seq.), 8 (§ 301 et seq.), 12 (§ 901 et seq.), 13 (§ 1001 et seq.), and 19 (§ 1231 et seq.) of Title 49, Transportation. Part I of the Interstate Commerce Act is classified generally to chapter 1 (§ 1 et seq.) of Title 49. For complete classification of this Act to the Code, see note captioned Interstate Commerce Act set out under section 27 of Title 49 and Tables volume.

§ 1508. Adjacent coastal States

(a) Designation; direct pipeline connections; mileage; risk of damage to coastal environment, time for designation

(1) The Secretary, in issuing notice of application pursuant to section 1504(c) of this title, shall designate as an "adjacent coastal State" any coastal State which (A) would be directly connected by pipeline to a deepwater port as proposed in an application, or (B) would be located within 15 miles of any such proposed deepwater port.

(2) The Secretary shall, upon request of a State, and after having received the recommendations of the Administrator of the National Oceanic and Atmospheric Administration, designate such State as an "adjacent coastal State" if he determines that there is a risk of damage to the coastal environment of such State equal to or greater than the risk posed to a State directly connected by pipeline to the proposed deepwater port. This paragraph shall apply only with respect to requests made by a State not later than the 14th day after the date of publication of notice of an application for a proposed deepwater port in the Federal Register in accordance with section 1504(c) of this title. The Secretary shall make the designation required by this paragraph not later than the 45th day after the date he receives such a request from a State.

(b) Applications; submittal to Governors for approval or disapproval; consistency of Federal licenses and State programs; views of other interested States

(1) Not later than 10 days after the designation of adjacent coastal States pursuant to this chapter, the Secretary shall transmit a complete copy of the application to the Governor of each adjacent coastal State. The Secretary shall not issue a license without the approval of the Governor of each adjacent coastal State. If the Governor fails to transmit his approval or disapproval to the Secretary not later than 45 days after the last public hearing on applications for a particular application area, such approval shall be conclusively presumed. If the Governnor notifies the Secretary that an application, which would otherwise be approved pursuant to this paragraph, is inconsistent with State programs relating to environmental protection, land and water use, and coastal zone management, the Secretary shall condition the license granted so as to make it consistent with such State programs.

(2) Any other interested State shall have the opportunity to make its views known to, and shall be given full consideration by, the Secretary regarding the location, construction, and operation of a deepwater port.

(c) Reasonable progress toward development of coastal zone management program; planning grants

The Secretary shall not issue a license unless the adjacent coastal State to which the deepwater port is to be directly connected by pipeline has developed, or is making, at the time the application is submitted, reasonable progress toward developing an approved coastal zone management program pursuant to the Coastal Zone Management Act of 1972 [16 U.S.C. 1451 et seq.] in the area to be directly and primarily impacted by land and water development in the coastal zone resulting from such deepwater port. For the purposes of this chapter, a State shall be considered to be making reasonable progress if it is receiving a planning grant pursuant to section 305 of the Coastal Zone Management Act [16 U.S.C. 1454].

(d) State agreements or compacts

The consent of Congress is given to two or more coastal States to negotiate and enter into agreements or compacts, not in conflict with any law or treaty of the United States, (1) to apply for a license for the ownership, construction, and operation of a deepwater port or for the transfer of such license, and (2) to establish such agencies, joint or otherwise, as are deemed necessary or appropriate for implementing and carrying out the provisions of any such agreement or compact. Such agreement or compact shall be binding and obligatory upon any State or party thereto without further approval by Congress.

(Pub. L. 93-627, § 9, Jan. 3, 1975, 88 Stat. 2136.)

REFERENCES IN TEXT

The Coastal Zone Management Act of 1972, referred to in subsec. (c), is title III of Pub. L. 89-454 as added by Pub. L. 92-583, Oct. 27, 1972, 86 Stat. 1280, which is classified generally to chapter 33 (§ 1451 et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 1451 of Title 16, and Tables volume.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1502, 1503 of this title.

§ 1509. Marine environmental protection and navigational safety

(a) Regulations and procedures

Subject to recognized principles of international law, the Secretary shall prescribe by regulation and enforce procedures with respect to any deepwater port, including, but not limited to, rules governing vessel movement, loading and unloading procedures, designation and marking of anchorage areas, maintenance, law enforcement, and the equipment, training, and maintenance required (A) to prevent pollution of the marine environment, (B) to clean up any pollutants which may be discharged, and (C) to otherwise prevent or minimize any adverse impact from the construction and operation of such deepwater port.

(b) Safety of property and life; regulations

The Secretary shall issue and enforce regulations with respect to lights and other warning devices, safety equipment, and other matters relating to the promotion of safety of life and property in any deepwater port and the waters adjacent thereto.

(c) Marking of components; payment of cost

The Secretary shall mark, for the protection of navigation, any component of a deepwater port whenever the licensee fails to mark such component in accordance with applicable regulations. The licensee shall pay the cost of such marking.

(d) Safety zones; designation; construction period; permitted activities

(1) Subject to recognized principles of international law and after consultation with the Secretary of the Interior, the Secretary of Commerce, the Secretary of State, and the Secretary of Defense, the Secretary shall designate a zone of appropriate size around and including any deepwater port for the purpose of navigational safety. In such zone, no installations, structures, or uses will be permitted that are incompatible with the operation of the deepwater port. The Secretary shall by regulation define permitted activities within such zone. The Secretary shall, not later than 30 days after publication of notice pursuant to section 1504(c) of this title, designate such safety zone with respect to any proposed deepwater port.

(2) In addition to any other regulations, the Secretary is authorized, in accordance with this subsection, to establish a safety zone to be effective during the period of construction of a deepwater port and to issue rules and regulations relating thereto.

(Pub. L. 93-627, § 10, Jan. 3, 1975, 88 Stat. 2137.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1502 of this title.

§ 1510. International agreements

The Secretary of State, in consultation with the Secretary, shall seek effective international action and cooperation in support of the policy and purposes of this chapter and may formu-

late, present, or support specific proposals in the United Nations and other competent international organizations for the development of appropriate international rules and regulations relative to the construction, ownership, and operation of deepwater ports, with particular regard for measures that assure protection of such facilities as well as the promotion of navigational safety in the vicinity thereof.

(Pub. L. 93-627, § 11, Jan. 3, 1975, 88 Stat. 2138.)

§ 1511. Suspension or termination of licenses

(a) Proceedings by Attorney General; venue; conditions subsequent

Whenever a licensee fails to comply with any applicable provision of this chapter, or any applicable rule, regulation, restriction, or condition issued or imposed by the Secretary under the authority of this chapter, the Attorney General, at the request of the Secretary, may, file an appropriate action in the United States district court nearest to the location of the proposed or actual deepwater port, as the case may be, or in the district in which the licensee resides or may be found, to—

(1) suspend the license; or

(2) if such failure is knowing and continues for a period of thirty days after the Secretary mails notification of such failure by registered letter to the licensee at his record post office address, revoke such license.

No proceeding under this subsection is necessary if the license, by its terms, provides for automatic suspension or termination upon the occurrence of a fixed or agreed upon condition, event, or time.

(b) Public health or safety; danger to environment; completion of proceedings

If the Secretary determines that immediate suspension of the construction or operation of a deepwater port or any component thereof is necessary to protect public health or safety or to eliminate imminent and substantial danger to the environment, he shall order the licensee to cease or alter such construction or operation pending the completion of a judicial proceeding pursuant to subsection (a) of this section.

(Pub. L. 93-627, § 12, Jan. 3, 1975, 88 Stat. 2138.)

CODIFICATION

"Chapter" was substituted for "title" in subsec. (a) to conform to other substitutions for "Act" and as reflecting intent of Congress manifest througout Pub. L. 93-627 in the use of the term "Act".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1507 of this title.

§ 1512. Recordkeeping and inspection

(a) Regulations; regulations under other provisions unaffected

Each licensee shall establish and maintain such records, make such reports, and provide such information as the Secretary, after consultation with other interested Federal departments and agencies, shall by regulation prescribe to carry out the provision of this chapter. Such regulations shall not amend, contradict or duplicate regulations established pursuant to part I of the Interstate Commerce Act [49 U.S.C. 1 et seq.] or any other law. Each licensee shall submit such reports and shall make such records and information available as the Secretary may request.

(b) Access to deepwater ports in enforcement proceedings and execution of official duties; inspections and tests; notification of results

All United States officials, including those officials responsible for the implementation and enforcement of United States laws applicable to a deepwater port, shall at all times be afforded reasonable access to a deepwater port licensed under this chapter for the purpose of enforcing laws under their jurisdiction or otherwise carrying out their responsibilities. Each such official may inspect, at reasonable times, records, files, papers, processes, controls, and facilities and may test any feature of a deep water port. Each inspection shall be conducted with reasonable promptness, and such licensee shall be notified of the results of such inspection.

(Pub. L. 93-627, § 13, Jan. 3, 1975, 88 Stat. 2139.)

REFERENCES IN TEXT

The Interstate Commerce Act, referred to in subsec. (a), is act Feb. 4, 1887, ch. 104, 24 Stat. 379, as amended. Part I of the Interstate Commerce Act is classified generally to chapter 1 (§ 1 et seq.) of Title 49, Transportation. For complete classification of this Act to the Code, see note captioned Interstate Commerce Act set out under section 27 of Title 49 and Tables volume.

§ 1513. Public access to information

(a) Inspection of copies; reproduction costs; protected information

Copies of any communication, document, report, or information transmitted between any official of the Federal Government and any person concerning a deepwater port (other than contracts referred to in section 1504(c)(2)(B) of this title) shall be made available to the public for inspection, and shall be available for the purpose of reproduction at a reasonable cost, to the public upon identifiable request, unless such information may not be publicly released under the terms of subsection (b) of this section. Except as provided in subsection (b) of this section, nothing contained in this section shall be construed to require the release of any information of the kind described in subsection (b) of section 552 of title 5 or which is otherwise protected by law from disclosure to the public.

(b) Information disclosure prohibition; confidentiality of certain disclosures

The Secretary shall not disclose information obtained by him under this chapter that concerns or relates to a trade secret, referred to in section 1905 of title 18, or to a contract referred to in section 1504(c)(2)(B) of this title, except that such information may be disclosed, in a manner which is designed to maintain confidentiality—

(1) to other Federal and adjacent coastal State government departments and agencies for official use, upon request;

(2) to any committee of Congress having jurisdiction over the subject matter to which the information relates, upon request;

(3) to any person in any judicial proceeding, under a court order formulated to preserve such confidentiality without impairing the proceedings; and

(4) to the public in order to protect health and safety, after notice and opportunity for comment in writing or for discussion in closed session within fifteen days by the party to which the information pertains (if the delay resulting from such notice and opportunity for comment would not be detrimental to the public health and safety).

(Pub. L. 93-627, § 14, Jan. 3, 1975, 88 Stat. 2139.)

§ 1514. Remedies

(a) Criminal penalties

Any person who willfully violates any provision of this chapter or any rule, order, or regulation issued pursuant thereto shall on conviction be fined not more than $25,000 for each day of violation or imprisoned for not more than 1 year, or both.

(b) Orders of compliance; Attorney General's civil action; jurisdiction and venue

(1) Whenever on the basis of any information available to him the Secretary finds that any person is in violation of any provision of this chapter or any rule, regulation, order, license, or condition thereof, or other requirements under this chapter, he shall issue an order requiring such person to comply with such provision or requirement, or he shall bring a civil action in accordance with paragraph (3) of this subsection.

(2) Any order issued under this subsection shall state with reasonable specificity the nature of the violation and a time for compliance, not to exceed thirty days, which the Secretary determines is reasonable, taking into account the seriousness of the violation and any good faith efforts to comply with applicable requirements.

(3) Upon a request by the Secretary, the Attorney General shall commence a civil action for appropriate relief, including a permanent or temporary injunction or a civil penalty not to exceed $25,000 per day of such violation, for any violation for which the Secretary is authorized to issue a compliance order under paragraph (1) of this subsection. Any action under this subsection may be brought in the district court of the United States for the district in which the defendant is located or resides, or is doing business, and such court shall have jurisdiction to restrain such violation, require compliance, or impose such penalty.

(c) Attorney General's action for equitable relief; scope of relief

Upon a request by the Secretary, the Attorney General shall bring an action in an appropriate district court of the United States for equitable relief to redress a violation by any person of any provision of this chapter, any regulation under this chapter, or any license condition. The district courts of the United States shall have jurisdiction to grant such relief as is necessary or appropriate, including mandatory or prohibitive injunctive relief, interim equitable relief, compensatory damages, and punitive damages.

(d) Vessels; liability in rem; exempt vessels; consent or privy of owners or bareboat charterers

Any vessel, except a public vessel engaged in noncommercial activities, used in a violation of this chapter or of any rule or regulation issued pursuant to this chapter, shall be liable in rem for any civil penalty assessed or criminal fine imposed and may be proceeded against in any district court of the United States having jurisdiction thereof; but no vessel shall be liable unless it shall appear that one or more of the owners, or bareboat charterers, was at the time of the violation, a consenting party or privy to such violation.

(Pub. L. 93-627, § 15, Jan. 3, 1975, 88 Stat. 2140.)

§ 1515. Citizen civil action

(a) Equitable relief; case or controversy; district court jurisdiction

Except as provided in subsection (b) of this section, any person may commence a civil action for equitable relief on his own behalf, whenever such action constitutes a case or controversy—

(1) against any person (including (A) the United States, and (B) any other governmental instrumentality or agency to the extent permitted by the eleventh amendment to the Constitution) who is alleged to be in violation of any provision of this chapter or any condition of a license issued pursuant to this chapter; or

(2) against the Secretary where there is alleged a failure of the Secretary to perform any act or duty under this chapter which is not discretionary with the Secretary. Any action brought against the Secretary under this paragraph shall be brought in the district court for the District of Columbia or the district of the appropriate adjacent coastal State.

In suits brought under this chapter, the district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce any provision of this chapter or any condition of a license issued pursuant to this chapter, or to order the Secretary to perform such act or duty, as the case may be.

(b) Notice; intervention of right by person

No civil action may be commenced—

(1) under subsection (a)(1) of this section—

(A) prior to 60 days after the plaintiff has given notice of the violation (i) to the Secretary and (ii) to any alleged violator; or

(B) if the Secretary or the Attorney General has commenced and is diligently prosecuting a civil or criminal action with respect to such matters in a court of the United States, but in any such action any person may intervene as a matter of right; or

(2) under subsection (a)(2) of this section prior to 60 days after the plaintiff has given notice of such action to the Secretary.

Notice under this subsection shall be given in such a manner as the Secretary shall prescribe by regulation.

(c) Intervention of right by Secretary or Attorney General

In any action under this section, the Secretary or the Attorney General, if not a party, may intervene as a matter of right.

(d) Costs of litigation; attorney and witness fees

The Court, in issuing any final order in any action brought pursuant to subsection (a) of this section, may award costs of litigation (including reasonable attorney and expert witness fees) to any party whenever the court determines that such an award is appropriate.

(e) Statutory or common law rights unaffected

Nothing in this section shall restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement or to seek any other relief.

(Pub. L. 93–627, § 16, Jan. 3, 1975, 88 Stat. 2140.)

§ 1516. Judicial review; persons aggrieved; jurisdiction of courts of appeal

Any person suffering legal wrong, or who is adversely affected or aggrieved by the Secretary's decision to issue, transfer, modify, renew, suspend, or revoke a license may, not later than 60 days after any such decision is made, seek judicial review of such decision in the United States Court of Appeals for the circuit within which the nearest adjacent coastal State is located. A person shall be deemed to be aggrieved by the Secretary's decision within the meaning of this chapter if he—

(A) has participated in the administrative proceedings before the Secretary (or if he did not so participate, he can show that his failure to do so was caused by the Secretary's failure to provide the required notice); and

(B) is adversely affected by the Secretary's action.

(Pub. L. 93–627, § 17, Jan. 3, 1975, 88 Stat. 2141.)

§ 1517. Liability

(a) Oil discharge; prohibition; penalty; notice and hearing; separate offense; vessel clearance; withholding, bond or surety

(1) The discharge of oil into the marine environment from a vessel within any safety zone, from a vessel which has received oil from another vessel at a deepwater port, or from a deepwater port is prohibited.

(2) The owner or operator of a vessel or the licensee of a deepwater port from which oil is discharged in violation of this subsection shall be assessed a civil penalty of not more than $10,000 for each violation. No penalty shall be assessed unless the owner or operator or the licensee has been given notice and opportunity for a hearing on such charge. Each violation is a separate offense. The Secretary of the Treasury shall withhold, at the request of the Secretary, the clearance required by section 91 of title 46, of any vessel the owner or operator of which is subject to the foregoing penalty. Clearance may be granted in such cases upon the filing of a bond or other surety satisfactory to the Secretary.

(b) Oil discharge; notification; penalty; use of notification in criminal cases limited

Any individual in charge of a vessel or a deepwater port shall notify the Secretary as soon as he has knowledge of a discharge of oil. Any such individual who fails to notify the Secretary immediately of such discharge shall, upon conviction, be fined not more than $10,000 or imprisoned for not more than 1 year, or both. Notification received pursuant to this subsection, or information obtained by the use of such notification, shall not be used against any such individual in any criminal case, except a prosecution for perjury or for giving a false statement.

(c) Oil removal; drawing upon Fund money for cleanup costs

(1) Whenever any oil is discharged from a vessel within any safety zone, from a vessel which has received oil from another vessel at a deepwater port, or from a deepwater port, the Secretary shall remove or arrange for the removal of such oil as soon as possible, unless he determines such removal will be done properly and expeditiously by the licensee of the deepwater port or the owner or operator of the vessel from which the discharge occurs.

(2) Removal of oil and actions to minimize damage from oil discharges shall, to the greatest extent possible, be in accordance with the National Contingency Plan for removal of oil and hazardous substances established pursuant to section 1321(c)(2) of this title.

(3) Whenever the Secretary acts to remove a discharge of oil pursuant to this subsection, he is authorized to draw upon money available in the Deepwater Port Liability Fund established pursuant to subsection (f) of this section. Such money shall be used to pay promptly for all cleanup costs incurred by the Secretary in removing or in minimizing damage caused by such oil discharge.

(d) Joint and several liability of owners and operators; limitation of liability; full amount of liability for gross negligence or willful misconduct

Notwithstanding any other provision of law, except as provided in subsection (g) of this section, the owner and operator of a vessel shall be jointly and severally liable, without regard to fault, for cleanup costs and for damages that result from a discharge of oil from such vessel within any safety zone, or from a vessel which has received oil from another vessel at a deepwater port, except when such vessel is moored at a deepwater port. Such liability shall not exceed $150 per gross ton or $20,000,000, whichever is lesser, except that if it can be shown that such discharge was the result of gross negligence or willful misconduct within the privity and knowledge of the owner or operator, such owner and operator shall be jointly and severally liable for the full amount of all cleanup costs and damages.

(e) Liability of licensees; limitation of liability; full amount of liability for gross negligence or willful misconduct

Notwithstanding any other provision of law, except as provided in subsection (g) of this section, the licensee of a deepwater port shall be liable, without regard to fault, for cleanup costs and damages that result from a discharge of oil

from such deepwater port or from a vessel moored at such deepwater port. Such liability shall not exceed $50,000,000, except that if it can be shown that such damage was the result of gross negligence or willful misconduct within the privity and knowledge of the licensee, such licensee shall be liable for the full amount of all cleanup costs and damages.

(f) Deepwater Port Liability Fund; establishment; suits; administration; liability for uncompensated cleanup costs and damages; fees and exemptions; maintenance of prescribed amount of money; loans from Treasury for payment of claims, interest; appropriation for administration costs; income from investments to principal of Fund

(1) There is established a Deepwater Port Liability Fund (hereinafter referred to as the "Fund") as a nonprofit corporate entity which may sue or be sued in its own name. The Fund shall be administered by the Secretary.

(2) The Fund shall be liable, without regard to fault, for all cleanup costs and all damages in excess of those actually compensated pursuant to subsections (d) and (e) of this section.

(3) Each licensee shall collect from the owner of any oil loaded or unloaded at the deepwater port operated by such licensee, at the time of loading or unloading, a fee of 2 cents per barrel, except that (A) bunker or fuel oil for the use of any vessel, and (B) oil which was transported through the trans-Alaska pipeline, shall not be subject to such collection. Such collections shall be delivered to the Fund at such times and in such manner as shall be prescribed by the Secretary. Such collections shall cease after the amount of money in the Fund has reached $100,000,000, unless there are adjudicated claims against the Fund yet to be satisfied. Collection shall be resumed when the Fund is reduced below $100,000,000. Whenever the money in the Fund is less than the claims for cleanup costs and damages for which it is liable under this section, the Fund shall borrow the balance required to pay such claims from the United States Treasury at an interest rate determined by the Secretary of the Treasury. Costs of administration shall be paid from the Fund only after appropriation in an appropriation bill. All sums not needed for administration and the satisfaction of claims shall be prudently invested in income-producing securities issued by the United States and approved by the Secretary of the Treasury. Income from such securities shall be applied to the principal of the Fund.

(g) Defenses; act of war; negligence of Federal Government; negligence of claimant

Liability shall not be imposed under subsection (d) or (e) of this section if the owner or operator of a vessel or the licensee can show that the discharge was caused solely by (1) an act of war, or (2) negligence on the part of the Federal Government in establishing and maintaining aids to navigation. In addition, liability with respect to damages claimed by a damaged party shall not be imposed under subsection (d), (e), or (f) of this section if the owner or operator of a vessel, the licensee, or the Fund can show that such damage was caused solely by the negligence of such party.

(h) Subrogation; third party liability; recovery of reasonable cleanup cost of discharge caused by act of war or negligence of Federal Government

(1) In any case where liability is imposed pursuant to subsection (d) of this section, if the discharge was the result of the negligence of the licensee, the owner or operator of a vessel held liable shall be subrogated to the rights of any person entitled to recovery against such licensee.

(2) In any case where liability is imposed pursuant to subsection (e) of this section, if the discharge was the result of the unseaworthiness of a vessel or the negligence of the owner or operator of such vessel, the licensee shall be subrogated to the rights of any person entitled to recovery against such owner or operator.

(3) Payment of compensation for any damages pursuant to subsection (f)(2) of this section shall be subject to the Fund acquiring by subrogation all rights of the claimant to recover for such damages from any other person.

(4) The liabilities established in this section shall in no way affect or limit any rights which the licensee, the owner, or operator of a vessel, or the Fund may have against any third party whose act may in any way have caused or contributed to a discharge of oil.

(5) In any case where the owner or operator of a vessel or the licensee of a deepwater port from which oil is discharged acts to remove such oil in accordance with subsection (c)(1) of this section, such owner or operator or such licensee shall be entitled to recover from the Fund the reasonable cleanup cost incurred in such removal if he can show that such discharge was caused solely by (A) an act of war or (B) negligence on the part of the Federal Government in establishing and maintaining aids to navigation.

(i) Class actions: Attorney General, member of group; notice, publication in Federal Register and newspapers; trustee's action for damages to natural resources of marine environment; restoration and rehabilitation of such resources

(1) The Attorney General may act on behalf of any group of damaged citizens he determines would be more adequately represented as a class in recovery of claims under this section. Sums recovered shall be distributed to the members of such group. If, within 90 days after a discharge of oil in violation of this section has occurred, the Attorney General fails to act in accordance with this paragraph, to sue on behalf of a group of persons who may be entitled to compensation pursuant to this section for damages caused by such discharge, any member of such group may maintain a class action to recover such damages on behalf of such group. Failure of the Attorney General to act in accordance with this subsection shall have no bearing on any class action maintained in accordance with this paragraph.

(2) In any case where the number of members in the class exceeds 1,000, publishing notice of the action in the Federal Register and in local newspapers serving the areas in which the damaged parties reside shall be deemed to fulfill the requirement for public notice established by rule 23(c)(2) of the Federal Rules of Civil Procedure.

(3) The Secretary may act on behalf of the public as trustee of the natural resources of the marine environment to recover for damages to such resources in accordance with this section. Sums recovered shall be applied to the restoration and rehabilitation of such natural resources by the appropriate agencies of Federal or State government.

(j) Procedures for filing and payment of claims for cleanup costs and damages; limitations; appeals

(1) The Secretary shall establish by regulation procedures for the filing and payment of claims for cleanup costs and damages pursuant to this chapter.

(2) No claims for payment of cleanup costs or damages which are filed with the Secretary more than 3 years after the date of the discharge giving rise to such claims shall be considered.

(3) Appeals from any final determination of the Secretary pursuant to this section shall be filed not later than 30 days after such determination in the United States Court of Appeals of the circuit within which the nearest adjacent coastal State is located.

(k) Federal preemption unintended; additional State requirements or liability; bar against multiple recoveries

(1) This section shall not be interpreted to preempt the field of liability or to preclude any State from imposing additional requirements or liability for any discharge of oil from a deepwater port or a vessel within any safety zone.

(2) Any person who receives compensation for damages pursuant to this section shall be precluded from recovering compensation for the same damages pursuant to any other State or Federal law. Any person who receives compensation for damages pursuant to any other Federal or State law shall be precluded from receiving compensation for the same damages as provided in this section.

(l) Financial responsibility

The Secretary shall require that any owner or operator of a vessel using any deepwater port, or any licensee of a deepwater port, shall carry insurance or give evidence of other financial responsibility in an amount sufficient to meet the liabilities imposed by this section.

(m) Definitions

As used in this section the term—

(1) "cleanup costs" means all actual costs, including but not limited to costs of the Federal Government, of any State or local government, of other nations or of their contractors or subcontractors incurred in the (A) removing or attempting to remove, or (B) taking other measures to reduce or mitigate damages from, any oil discharged into the marine environment in violation of subsection (a)(1) of this section;

(2) "damages" means all damages (except cleanup costs) suffered by any person, or involving real or personal property, the natural resources of the marine environment, or the coastal environment of any nation, including damages claimed without regard to ownership of any affected lands, structures, fish, wildlife, or biotic or natural resources;

(3) "discharge" includes, but is not limited to, any spilling, leaking, pumping, pouring, emitting, emptying, or dumping into the marine environment of quantities of oil determined to be harmful pursuant to regulations issued by the Administrator of the Environmental Protection Agency; and

(4) "owner or operator" means any person owning, operating, or chartering by demise, a vessel.

(n) Study for a uniform law for cleanup costs and damages from oil spills; adjudication and settlement of claims; report to Congress

(1) The Attorney General, in cooperation with the Secretary, the Secretary of State, the Secretary of the Interior, the Administrator of the Environmental Protection Agency, the Council on Environmental Quality, and the Administrative Conference of the United States, is authorized and directed to study methods and procedures for implementing a uniform law providing liability for cleanup costs and damages from oil spills from Outer Continental Shelf operations, deepwater ports, vessels, and other ocean-related sources. The study shall give particular attention to methods of adjudicating and settling claims as rapidly, economically, and equitably as possible.

(2) The Attorney General shall report the results of his study together with any legislative recommendations to the Congress within 6 months after January 3, 1975.

(Pub. L. 93-627, § 18, Jan. 3, 1975, 88 Stat. 2141.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1503 of this title.

§ 1518. Relationship to other laws

(a) Federal Constitution, laws, and treaties applicable; other Federal requirements applicable; status of deepwater port; Federal or State authorities and responsibilities within territorial seas unaffected

(1) The Constitution, laws, and treaties of the United States shall apply to a deepwater port licensed under this chapter and to activities connected, associated, or potentially interfering with the use or operation of any such port, in the same manner as if such port were an area of exclusive Federal jurisdiction located within a State. Nothing in this chapter shall be construed to relieve, exempt, or immunize any person from any other requirement imposed by Federal law, regulation, or treaty. Deepwater ports licensed under this chapter do not possess the status of islands and have no territorial seas of their own.

(2) Except as otherwise provided by this chapter, nothing in this chapter shall in any way alter the responsibilities and authorities of a State or the United States within the territorial seas of the United States.

(b) Law of nearest adjacent coastal State as applicable Federal law; Federal administration and enforcement of such law; nearest adjacent coastal State defined

The law of the nearest adjacent coastal State, now in effect or hereafter adopted, amended, or repealed, is declared to be the law of the United States, and shall apply to any deepwater port licensed pursuant to this chapter, to the extent applicable and not inconsistent with any provi-

sion or regulation under this chapter or other Federal laws and regulations now in effect or hereafter adopted, amended, or repealed. All such applicable laws shall be administered and enforced by the appropriate officers and courts of the United States. For purposes of this subsection, the nearest adjacent coastal State shall be that State whose seaward boundaries, if extended beyond 3 miles, would encompass the site of the deepwater port.

(c) Vessels of foreign states subject to Federal jurisdiction; designation of agent for service of process

Except in a situation involving force majeure, a licensee of a deepwater port shall not permit a vessel, registered in or flying the flag of a foreign state, to call at, or otherwise utilize a deepwater port licensed under this chapter unless (1) the foreign state involved, by specific agreement with the United States, has agreed to recognize the jurisdiction of the United States over the vessel and its personnel, in accordance with the provisions of this chapter, while the vessel is located within the safety zone, and (2) the vessel owner or operator has designated an agent in the United States for receipt of service of process in the event of any claim or legal proceeding resulting from activities of the vessel or its personnel while located within such a safety zone.

(d) Customs laws inapplicable to deepwater port; duties and taxes on foreign articles imported into customs territory of United States

The customs laws administered by the Secretary of the Treasury shall not apply to any deepwater port licensed under this chapter, but all foreign articles to be used in the construction of any such deepwater port, including any component thereof, shall first be made subject to all applicable duties and taxes which would be imposed upon or by reason of their importation if they were imported for consumption in the United States. Duties and taxes shall be paid thereon in accordance with laws applicable to merchandise imported into the customs territory of the United States.

(e) Federal district courts; original jurisdiction; venue

The United States district courts shall have original jurisdiction of cases and controversies arising out of or in connection with the construction and operation of deepwater ports, and proceedings with respect to any such case or controversy may be instituted in the judicial district in which any defendant resides or may be found, or in the judicial district of the adjacent coastal State nearest the place where the cause of action arose.

(Pub. L. 93–627, § 19(a)–(e), Jan. 3, 1975, 88 Stat. 2145, 2146.)

REFERENCES IN TEXT

The customs laws, referred to in subsec. (d), are classified generally to Title 19, Customs Duties.

CODIFICATION

Section 19(f) of Pub. L. 93–627 amended section 1333(a)(2) of Title 43, Public Lands.

§ 1519. Annual report by Secretary to Congress; recommendations to Congress

Within 6 months after the end of each fiscal year, the Secretary shall submit to the President of the Senate and the Speaker of the House of Representatives (1) a report on the administration of this chapter during such fiscal year, including all deepwater port development activities; (2) a summary of management, supervision, and enforcement activities; and (3) recommendations to the Congress for such additional legislative authority as may be necessary to improve the management and safety of deepwater port development and for resolution of jurisdictional conflicts or ambiguities.

(Pub. L. 93–627, § 20, Jan. 3, 1975, 88 Stat. 2146.)

§ 1520. Pipeline safety and operation

(a) Standards and regulations for Outer Continental Shelf

The Secretary, in cooperation with the Secretary of the Interior, shall establish and enforce such standards and regulations as may be necessary to assure the safe construction and operation of oil pipelines on the Outer Continental Shelf.

(b), (c) Omitted

(Pub. L. 93–627, § 21, Jan. 3, 1975, 88 Stat. 2146.)

CODIFICATION

Subsec. (b), which directed the Secretary to report to the Congress within 60 days after Jan. 3, 1975 on appropriations and staffing needed to monitor pipelines on Federal lands and the Outer Continental Shelf, was omitted from the Code as executed.

Subsec. (c), which directed the Secretary to review all laws and regulations relating to the construction, operation, and maintenance of pipelines on Federal lands and the Outer Continental Shelf and to report to Congress within 6 months after Jan. 3, 1975, on administrative changes needed and recommendations for new legislation, was omitted from the Code as executed.

§ 1521. Negotiations with Canada and Mexico; report to Congress

The President of the United States is authorized and requested to enter into negotiations with the Governments of Canada and Mexico to determine:

(1) the need for intergovernmental understandings, agreements, or treaties to protect the interests of the people of Canada, Mexico, and the United States and of any party or parties involved with the construction or operation of deepwater ports; and

(2) the desirability of undertaking joint studies and investigations designed to insure protection of the environment and to eliminate any legal and regulatory uncertainty, to assure that the interests of the people of Canada, Mexico, and the United States are adequately met.

The President shall report to the Congress the actions taken, the progress achieved, the areas of disagreement, and the matters about which more information is needed, together with his recommendations for further action.

(Pub. L. 93–627, § 22, Jan. 3, 1975, 88 Stat. 2147.)

§ 1522. Limitations on export provisions of section 185(u) of title 30 unaffected

Nothing in this chapter shall be construed to amend, restrict, or otherwise limit the application of section 185(u) of title 30.

(Pub. L. 93–627, § 23, Jan. 3, 1975, 88 Stat. 2147.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1502 of this title.

§ 1523. General procedures; issuance and enforcement of orders; scope of authority; evidentiary matters

The Secretary or his delegate shall have the authority to issue and enforce orders during proceedings brought under this chapter. Such authority shall include the authority to issue subpenas, administer oaths, compel the attendance and testimony of witnesses and the production of books, papers, documents, and other evidence, to take depositions before any designated individual competent to administer oaths, and to examine witnesses.

(Pub. L. 93–627, § 24, Jan. 3, 1975, 88 Stat. 2147.)

§ 1524. Authorization of appropriations

There is authorized to be appropriated for administration of this chapter not to exceed $2,500,000 for the fiscal year ending June 30, 1975, not to exceed $2,500,000 for the fiscal year ending June 30, 1976, and not to exceed $2,500,000 for the fiscal year ending June 30, 1977.

(Pub. L. 93–627, § 25, Jan. 3, 1975, 88 Stat. 2147.)